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# Dene / Metis Comprehensive Land Claim Agreement in Principle





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COMPREHENSIVE LAND CLAIM  
AGREEMENT IN PRINCIPLE  
BETWEEN CANADA  
AND THE  
DENE NATION AND THE METIS ASSOCIATION  
OF THE NORTHWEST TERRITORIES

September, 1988

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Hon. Bill McKnight, P.C., M.P.,  
Minister of Indian Affairs and  
Northern Development,  
Ottawa, 1988.

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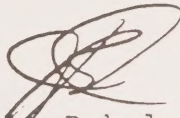
**Entente de principe sur la revendication  
territoriale globale des Dénés et des  
Métis**



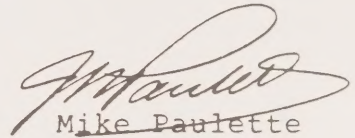


JOINT MEMORANDUM OF AUGUST 22, 1988

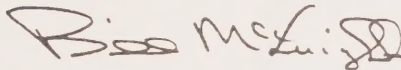
It is understood that the Dene/Métis position going into final negotiations is as reflected in the motions of the Joint Assembly at Hay River Reserve July 10, 1988 and Leadership meeting at Yellowknife August 19, 1988 and the position of the Government of Canada is as reflected in the letters of Mr. Osborn July 29, 1988 and Mr. McKnight August 9, 1988.




John Bekale  
for the  
Dene



Mike Paulette  
for the  
Métis



Bill McKnight  
for the  
Government of Canada



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DENE/METIS COMPREHENSIVE LAND CLAIM  
AGREEMENT IN PRINCIPLE

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**1      OBJECTIVES**

To be negotiated prior to the Final Agreement.

DEFINITIONS

## 2.1.1 In this agreement:

"Act" includes ordinance;

"agreement" means the agreement-in-principle;

"conservation" means the management of wildlife populations and habitat to ensure the maintenance of the quality and diversity including the long term optimum productivity of those resources, and to ensure a sustainable harvest and its efficient utilization;

"conservation area" means game reserves, sanctuaries, migratory bird sanctuaries, national wildlife areas, and similar areas for the protection of wildlife and wildlife habitat established under federal or territorial legislation except National Parks;

"Dene/Metis" refers to participants, and Dene/Metis organizations established pursuant to chapter 5, as the context requires;

"Dene/Metis developed municipal lands" means all Dene/Metis lands which are assessable Dene/Metis real property within local government boundaries, as defined in the Property Assessment and Taxation Act (N.W.T.) or successor legislation, except lands which are vacant and unserviced. Improvements which are used primarily for wildlife harvesting or other traditional purposes, including cabins, camps and tent frames, are not assessable real property;

"Dene/Metis lands" means Dene/Metis municipal lands and Dene/Metis settlement lands;

"Dene/Metis local or regional council" means a Dene/Metis local or regional wildlife management council or councils as may be appropriate;

"Dene/Metis municipal lands" means Dene/Metis lands within local government boundaries granted pursuant to this agreement;

"Dene/Metis settlement lands" means Dene/Metis lands outside local government boundaries granted pursuant to this agreement;

"designated Dene/Metis organization" means a Dene/Metis organization established pursuant to chapter 5;

"developer" means any person or persons engaged in development activity;

"development activity" means any commercial or industrial under-taking, any local, territorial or federal government undertaking, or extension thereof, on land or water in the settlement area or within the Squirrel Sunrise Management Area of Wood Buffalo National Park other than commercial wildlife harvesting or guiding, outfitting and hunting, fishing and naturalist activities;

"development proposal" means a proposed development activity outside local government boundaries, or within such boundaries where the undertaking would have a significant impact on air, water or renewable resources.

"expropriating authority" means the Government of Canada or the Government of the Northwest Territories or any other authority authorized by statute to expropriate land or an interest in land;

"expropriation" means the compulsory taking of lands or any interest in land;



"forest conservation" means the management of forest resources to ensure the maintenance of the quality and diversity, including the long term optimum productivity of those resources, and to ensure a sustainable harvest and its efficient utilization;

"forest management" includes forest conservation, forest fire fighting, timber management, reforestation and silvaculture;

"furbearers" means the following species endemic to the settlement area: Castor including beaver; Alopex including white fox or arctic fox; Lutra including otter; Lynx including lynx; Martes including martens and fishers; Mephitis including skunk; Mustela including weasel and mink; Ondatra including muskrat; Vulpes including red, cross, black and silver fox; Gulo including wolverine; Canis including wolves and coyotes; Marmota including marmots; Tamiasciurus including red squirrels;

"government" means the Government of Canada, and/or the Government of the Northwest Territories or its successor or successors, having jurisdiction in the settlement area, as the context requires;

"harvesting" means gathering, hunting, trapping or fishing in accordance with this agreement or applicable legislation;

"heritage resources" means archaeological and historic places and sites, artifacts and objects of historical, cultural or religious significance and records relating to the history and culture of the Dene/Metis peoples.

"impact on the environment" includes effects on air, land and water quality, on wildlife and wildlife harvesting,

on the social and cultural environment and on heritage resources.

"legislation" means federal or territorial legislation in force from time to time and includes regulations;

"local governments" means all incorporated cities, towns, villages, hamlets, charter communities, settlements, any other local government listed in 25.9.1 and any other local government which is subsequently designated and established pursuant to 25.8.1 and includes the Government of the Northwest Territories when it acts in the stead of local government;

"member of immediate family" means spouse, child, parent, brother or sister;

"migratory game birds" has the same meaning as in the Migratory Birds Convention Act (R.S.C. 1970, c. M-12);

"Minister" means the Minister of the Government of Canada or an elected member of the Executive Committee of the Council of the Government of the Northwest Territories, as the context requires, responsible for the subject-matter referred to;

"minor" means a person who has not yet reached the age of majority as determined from time to time, by the Legislative Assembly of the Northwest Territories;

"national park" means lands described in the schedules to the National Parks Act (R.S.C. 1970, c. N-13 as am) that lie within the settlement area;

"navigable" means with respect to a river, lake or other body of water, capable of navigation by boat or other water craft used for commercial purposes or by members of the public in the settlement area.

"overlap agreement" means those provisions of a land claims agreement with respect to the overlapping interest of aboriginal peoples who are each negotiating or have negotiated a comprehensive land claims agreement;

"participant" means a person who is enrolled in the Dene/Metis settlement;

"plants" means all flora in a wild state with the exception of trees;

"protected area" means all areas and locations of land set apart and protected by Government in the settlement area including historic parks and sites, national wildlife areas, migratory bird sanctuaries, Territorial Parks, conservation areas, and archaeological sites but does not include National Parks;

"real property taxation" means any tax, levy or charge, or other assessment against lands for local government services or improvements;

"regions" means the five Dene/Metis regions in the settlement area known as Deh Cho, Mackenzie Delta, North Slave, Sahtu, and South Slave;

"settlement area" comprises the area within the Northwest Territories, including Dene/Metis lands, that is bounded on the south by the sixtieth parallel of latitude excluding the area of Wood Buffalo National Park; on the west by the border between the Northwest Territories and Yukon Territory; on the north by the boundary of the Western Arctic Region and on the east by a boundary to be described in the Final Agreement;

"settlement legislation" means the legislation described in 3.1.1;



"territorial park" means lands described in the schedule to the Territorial Park Regulations of the Territorial Parks Act;

"timber licence" includes timber permit and forest management agreement;

"trees" means a single-stemmed, perennial woody plant growing to a height of more than eight feet, and which is found in a wild state in the Northwest Territories, including Pinus species including Jack Pine and Lodge-pole pine, Larix species including Tamarack, Picea species including White Spruce and Black Spruce, Abies species including Alpine Fir, Salix species including Beaked Willow and Pussy Willow, Populus species including Trembling Aspen and Balsam Poplar, Betula species including White Birch, Alaska Birch and Water Birch, Alnus species including Speckled Alder and Mountain Alder, and Prunus species including Choke Cherry and Pin Cherry;

"wildlife" means all ferae naturae in a wild state including, fish, mammals, and birds;

### 3 GENERAL PROVISIONS

- 3.1.1 Canada shall recommend to Parliament that the Final Agreement be approved, given effect and declared valid by legislation hereinafter called the "settlement legislation"
- 3.1.2 The Final Agreement shall be a land claims agreement within the meaning of section 35 of the Constitution Act, 1982.
- 3.1.3 Nothing in the Final Agreement or in the settlement legislation shall remove from the Dene/Metis their identity as aboriginal peoples of Canada or, subject to 3.1.9, affect their ability to participate in or benefit from any existing or future constitutional rights for aboriginal people which may be applicable to them.
- 3.1.4 Nothing in the Final Agreement shall affect the ability of participants to participate in and benefit from government programs for status Indians, non-status Indians or Metis, as the case may be. Benefits received under such programs shall be determined by general criteria established from time to time.
- 3.1.5 Nothing in the Final Agreement shall affect the rights of the Dene/Metis as Canadian citizens and they shall continue to be entitled to all the rights and benefits of all other citizens applicable to them from time to time.
- 3.1.6 Except as provided in 11.4 nothing in the Final Agreement shall affect the status under the Indian Act of any participant.
- 3.1.7 Nothing in the final agreement shall affect the status under the Indian Act of the Hay River Reserve no.209 and the Salt River Reserve no. 195, except as expressly provided for in the Final Agreement.

3.1.8 The parties recognize the historical and cultural importance of Treaties 8 and 11 and agree that there shall be annual meetings to affirm this recognition, and to recognize the importance of the Final Agreement as a modern treaty, in a manner to be set out in the Final Agreement.

3.1.9 Subject to 3.1.10 and subject to the enactment of the settlement legislation, and in consideration of the rights and benefits provided to the Dene/Metis by the Final Agreement, the Dene/Metis:

(a) cede, release and surrender to Her Majesty in Right of Canada

- (i) all their aboriginal claims, rights, titles and interest, if any, in and to lands and waters anywhere within Canada, and
- (ii) all their claims, rights or causes of action whether collective or individual which they ever had, now have, or may hereafter have under, or arising out of or by reason of Treaty 8 or Treaty 11, with respect to any matter provided for in this agreement and the matters described in the clauses of the treaties which follow the clause beginning "To have and to hold..." to but not including the clause which begins "And the undersigned...", but excluding the clause respecting the salaries of teachers, and
- (iii) all their claims, rights or causes of action which they ever had, now have or may hereafter have under, or arising out of or by reason of any Imperial or Canadian legislation or Order-in-Council or other action of the



Governor-in-Council or Canada in relation to  
Metis or half-breed scrip or money for scrip.

(b) agree, on their behalf, and on behalf of their heirs, descendants and successors not to assert any cause of action, action for a declaration, claim or demand of whatever kind or nature which they ever had, now have or may hereafter have against Her Majesty in Right of Canada or any province, the Government of any territory or any person based on any claim, right, title or interest described in (a).

3.1.10 Nothing in the Final Agreement shall be construed to affect hunting, trapping or fishing rights under a Natural Resources Transfer Agreement, or under treaty in any province of any person who is eligible to participate in this Agreement.

3.1.11 Nothing in the Final Agreement shall be construed to affect, recognize or provide any rights under section 35 of the Constitution Act, 1982 for any aboriginal peoples other than the Dene/Metis.

3.1.12 Subject to the enactment of the settlement legislation, and in consideration of the rights and benefits provided to the Dene/Metis by the Final Agreement, the Dene/Metis hereby agree to indemnify and forever save harmless Her Majesty in Right of Canada from all manner of suits and actions, causes of action, claims, demands, damages, costs or expenses, liability and entitlement, initiated, made or incurred after this agreement, whether known or unknown against Canada which any person who is eligible to participate in this Agreement, including any heir, successor or permitted assign of such a person ever had, now has or may hereafter have against Canada relating to or in any way arising from the claims, rights, titles and interests described in 3.1.9(a)(ii) and (iii).

- 3.1.13 Canada shall vigorously defend any such suit or action, cause of action, claim or demand and shall not compromise or settle any such suit or action, cause of action, claim or demand without the consent of a designated Dene/Metis organization.
- 3.1.14 The Dene/Metis shall not be required to pay to Canada its own costs under 3.1.12 and 3.1.13.
- 3.1.15 The settlement legislation shall provide that the Final Agreement may be examined as an aid to interpretation where there is any doubt in the meaning of any Act giving effect to the Final Agreement.
- 3.1.16 There shall not be any presumption that doubtful expressions in this agreement be resolved in favour of government or the Dene/Metis.
- 3.1.17 The Final Agreement shall be the entire agreement and there is no representation, warranty, collateral agreement or condition affecting the Final Agreement except as expressed in it.
- 3.1.18 Subject to 3.1.19, all federal, territorial and local government laws shall apply to the Dene/Metis and Dene/Metis lands.
- 3.1.19 Where there is any inconsistency or conflict between the settlement legislation or the Final Agreement and the provisions of any legislation, the settlement legislation or the Final Agreement, as the case may be, shall prevail to the extent of the inconsistency or conflict.
- 3.1.20 Notwithstanding any other provision of the Final Agreement, government is not required to disclose any information that it is required or entitled to withhold under any act relating to access to information. Where government has a discretion to disclose any information,

it shall take into account the objectives of this Agreement in exercising that discretion.

- 3.1.21 Subject to 3.1.12, neither government nor the Dene/Metis shall have a claim or cause of action in the event any provision of the Final Agreement is invalid.
- 3.1.22 Neither government nor the Dene/Metis shall challenge the validity of any provision of the Final Agreement.
- 3.1.23 If any provision of the Final Agreement is found by a court of competent jurisdiction to be invalid, government and the Dene/Metis shall make best efforts to amend the Final Agreement to remedy the invalidity or replace the invalid provision.
- 3.1.24 Nothing in the Final Agreement shall affect the ability of the Dene/Metis to negotiate self-government agreements with government.
- 3.1.25 Nothing in the Final Agreement shall prejudice the devolution or transfer of provincial-type jurisdiction or powers from Canada to the Northwest Territories.
- 3.1.26 The Final Agreement shall include a process by which it may be amended by consent of government and the Dene/Metis.
- 3.1.27 Approval of the Final Agreement by Parliament and the Dene/Metis in accordance with the Final Agreement is a condition precedent to the validity of the Final Agreement and, in the absence of such approval, the Final Agreement is null and void and of no effect.
- 3.1.28 Government shall consult closely with a designated Dene/Metis organization in the planning of the institutions and the preparation of the settlement legislation and any other legislation proposed to implement provisions of the Final Agreement.



- 3.1.29 The Supreme Court of the Northwest Territories has jurisdiction in respect of any action arising out of the Final Agreement.
- 3.1.30 Where a participant has a right of action in relation to the Final Agreement, a designated Dene/Metis Organization may bring that action on behalf of such participant with the consent of the participant.
- 3.2 Interim Provisions
- 3.2.1 After ratification of this agreement, the parties shall continue negotiations in good faith towards a Final Agreement based on this agreement.
- 3.2.2 Nothing in this agreement imposes a legal obligation on either party.
- 3.2.3 If a Final Agreement has not been ratified by the parties by January 31, 1991, the parties are released from all undertakings in this agreement, unless otherwise agreed.
- 3.2.4 Section 3.2.3 shall not apply to the Memorandum regarding Overlap Resolutions between the Inuvialuit, Dene/Metis and Canada dated February 9, 1984 or to Order-in-Council 1984-1678 ("Mackenzie Delta Withdrawal from Disposal Order").

## 4 ELIGIBILITY AND ENROLMENT

### 4.1 DEFINITIONS AND EXPLANATION

#### 4.1.1 In this chapter,

(a) "Dene" or "Metis" means a person who:

- (i) is a descendant of the Chipewyan, Slavey, Loucheux, Dogrib, Hare or Cree people; and
- (ii) resided in, or used and occupied, or is a descendant of a person who resided in or used and occupied, the Mackenzie Basin on or before January 1, 1921;

(b) "MacKenzie Basin" means, for the purpose of this chapter, that portion of the Northwest Territories north of 60° latitude, described in Treaty 8 and Treaty 11.

(c) It is understood that temporary absences for reasons such as, but not limited to, education, job training or experience, medical treatment, military service or incarceration, shall be considered periods of residence, provided the person lived in the Mackenzie Basin immediately prior to the commencement of the temporary absence.

### 4.2 ELIGIBILITY

4.2.1 A person shall be eligible to be enrolled as a participant if he or she is a Canadian citizen, resident of the Mackenzie Basin; and

(a) a Dene; or

(b) a Metis; or

- (c) a person who was adopted as a minor, under the laws of any jurisdiction or under any Dene or Metis custom, by a person who is eligible under (a), (b) or (d); or
- (d) a direct lineal descendant of a person eligible under (a), (b) or (c), and is born after March 22, 1984.

4.2.2 Notwithstanding that a person is not eligible to be enrolled by virtue of 4.2.1, he or she, subject to 4.6, shall be eligible to be enrolled if he or she is a Canadian citizen, resident in the Mackenzie Basin, and has lived there for a majority of his or her life, and is

- (a) a descendant of Chipewyan, Slavey, Loucheux, Dogrib, Hare or Cree people; and
- (b) a current holder of a Northwest Territories General Hunting Licence who acquired it on or before August 1, 1953 or a person entitled to such a licence on or before August 1, 1953; or
- (c) a direct lineal descendant of a person who is eligible under (a) and (b) or (d), including persons who are born after March 22, 1984; and
- (d) a person who was adopted as a minor under the laws of any jurisdiction or under any Dene or Metis custom, by a person who is eligible under (a) and (b) or (c);
- (e) "a person entitled to such a licence on or before August 1, 1953" means a person who, on or before August 1, 1953
  - (i) was over the age of sixteen years; and
  - (ii) had resided in the Mackenzie Basin continuously since his or her birth, or



(iii) was a member of a family or group of Chipewyan, Slavey, Loucheux, Dogrib, Hare or Cree people that, prior to August 1, 1953, hunted in the Mackenzie Basin as a means of livelihood.

- 4.2.3 (a) Notwithstanding that a person is not eligible to be enrolled by virtue of 4.2.1 or 4.2.2, he or she shall be eligible to be enrolled if he or she is a Canadian citizen of aboriginal ancestry resident in the Mackenzie Basin, who is accepted by the community prior to December 31, 1987, for reasons of community or family harmony;
- (b) "accepted by the community" under this section shall mean that a person has been sponsored by a person eligible to be enrolled pursuant to 4.2.1, and there has been a vote by a majority of those persons resident in the geographic community who are eligible to be enrolled pursuant to 4.2.1 and approved by a majority of those voting. This vote shall be by secret ballot.

#### 4.3 RIGHTS AND BENEFITS

- 4.3.1 A participant may elect to be enrolled in this settlement as a Dene or as a Metis. The particular rights and benefits described in the Final Agreement may be provided for on an individual or collective basis.

#### 4.4 NATURE OF ELIGIBILITY

- 4.4.1 Eligibility is personal; it cannot be transferred or assigned.

4.5 OTHER SETTLEMENTS

- 4.5.1 Any person who is, or who is descended from, a person who has been enrolled in any other settlement in Canada shall not be enrolled under this agreement.
- 4.5.2 Section 4.5.1 shall not operate so as to deny enrolment under the provisions of this agreement to a person who:
- (a) is eligible to be enrolled pursuant to 4.2.1 or 4.2.2; or
  - (b) is a spouse of a person who is eligible to be enrolled pursuant to 4.2.1 or 4.2.2, and is accepted pursuant to 4.2.3.
- 4.5.3 For the purposes of 4.5.1, receipt of monetary benefits pursuant to the Agreement with Respect to Providing Interim Benefits to Yukon Indian Elders between the Government of Canada and the Council for Yukon Indians shall not be considered enrolment in any other settlement.
- 4.5.4 Subject to 4.5.3, in the event that a person who is enrolled in this settlement becomes enrolled in another settlement in Canada, he or she shall thereupon cease to be enrolled in this settlement.
- 4.5.5 A minor who is eligible for enrolment under both this settlement and another settlement in Canada, other than Treaties 8 and 11 in the Mackenzie Basin, may elect the settlement in which he or she wishes to be enrolled, provided the election takes place within two years of attaining the age of majority.
- 4.5.6 Nothing in this section shall apply where a contrary provision is made pursuant to the resolution of overlapping claims in this settlement or in any other settlement. It is further agreed that the resolution of

overlapping claims will address the particular circumstances of those persons who meet the eligibility criteria of more than one settlement.

#### 4.6 ENUMERATION AND VOTING

- 4.6.1 Local Enumeration Committees, similar to the Local Enrolment Committees described in 4.8, and a Dene/Metis Central Enumeration Board, similar to the Central Enrolment Board described in 4.7, shall be established by the Dene Nation and the Metis Association of the Northwest Territories as soon as practicable following March 22, 1984, to conduct the enumeration and the vote referred to in this section.
- 4.6.2 A vote shall be held to decide whether or not persons described in 4.2.2 will be eligible to be enrolled. There shall be a list of the number of persons in each community who meet the qualifications of 4.2.2. The vote shall be held not later than ten months following March 22, 1984.
- 4.6.3 The vote shall be taken by secret ballot of a majority of those persons described in 4.6.4. The decision shall be by a simple majority vote.
- 4.6.4 Those persons 19 years of age or over who are eligible to be enrolled under 4.2.1 and have been enumerated, shall be qualified to vote.
- 4.6.5 Enumeration of persons eligible to be enrolled under 4.2.1 and any other persons eligible to be enrolled may continue following the vote.
- 4.6.6 Rules and procedures relating to the enumeration and to the vote shall be determined by the Dene/Metis Central Enumeration Board referred to in 4.6.1.

- 4.6.7 All collected and recorded information relating to the enumeration shall be made available to the Central Enrolment Board when it is established.
- 4.7 CENTRAL ENROLMENT BOARD
- 4.7.1 A Central Enrolment Board shall be established, composed of:
- (a) two persons, who are eligible by virtue of 4.2.1, appointed by the Board of Directors of the Dene Nation or its successor;
  - (b) two persons, who are eligible by virtue of 4.2.1, appointed by the Board of Directors of the Metis Association of the Northwest Territories or its successor;
  - (c) two persons appointed by the Minister of Indian Affairs and Northern Development;
  - (d) one person selected by the six persons mentioned above.
- 4.7.2 The four members of the Central Enrolment Board appointed by the Dene Nation and Metis Association of the Northwest Territories or their successors, shall be approved by the Boards of both organizations;
- 4.7.3 The Central Enrolment Board shall, as required:
- (a) designate communities, such as and in addition to those listed in 4.8.3, either upon application or upon its own motion, for the purpose of establishing Local Enrolment Committees, and to amend the list of designated communities by deleting references to those communities where a Local Enrolment Committee is no longer necessary;



- (b) establish a Central Enrolment Register, and maintain therein a record of all enrolled persons;
- (c) maintain a record of those persons whose application for enrolment were rejected;
- (d) enter the names of those persons approved by the Local Enrolment Committee in a Central Enrolment Register, within thirty days of the receipt of the information by the Central Enrolment Board, provided that all persons named are in fact determined to be eligible for enrolment by the Central Enrolment Board in accordance with the terms of this chapter, for the purposes of ensuring fairness and uniformity of application;
- (e) maintain, publish and advertise the Central Enrolment Register;
- (f) prepare an annual budget for the operation of the Central Enrolment Board and the Local Enrolment Committees for the initial enrolment period, and presented it for review and approval to the Government of Canada;
- (g) prepare and provide application forms and other forms and information to the Local Enrolment Committee. Application forms used for enrolment purposes shall provide for an election whereby an applicant may elect whether he or she wishes to participate as a Dene or a Metis for the purposes of this settlement;
- (h) appoint a Local Enrolment Committee in the event that a community has not established such a committee within three months of the establishment of the Central Enrolment Board, or in the event that the Local Enrolment Committee fails to carry out its duties and responsibilities;

- (i) appoint a Local Enrolment Committee or Committees for those applicants who are not associated with any of the designated communities;
- (j) determine its own procedures and rules of evidence which shall be in accordance with principles of natural justice;
- (k) notify each applicant whose name has not been entered in the Central Enrolment Register of the reasons for the decision to refuse enrolment and of his or her right to appeal from any decision by the Local Enrolment Committee with respect to enrolment, within sixty days of the date of the decision;
- (l) hear and determine an appeal from any decision by a Local Enrolment Committee with respect to enrolment within ninety days of receipt of written notification of the appeal, provided that there shall be no appeal from a vote taken pursuant to 4.2.3;
- (m) provide copies of completed application forms, the Central Enrolment Register, and such other information as may be lawfully requested of them by the Government of Canada, the Government of the Northwest Territories, the Metis Association and the Northwest Territories, or the Dene Nation;
- (n) determine or approve rules and procedures to govern the various community acceptance votes as provided in 4.2.3.

#### 4.8 LOCAL ENROLMENT COMMITTEE

- 4.8.1 Each designated community shall establish a Local Enrolment Committee composed of one or more, but not exceeding a total of five, persons who are eligible by virtue of 4.2.1. The persons selected by the community shall be confirmed by the Central Enrolment Board.

4.8.2 The Local Enrolment Committee shall, as required:

- (a) publicize and provide information in respect of the enrolment process and criteria;
- (b) supply the application forms and any other forms prepared by the Central Enrolment Board to any persons wishing to apply for enrolment for themselves or for their minor children, and to receive completed applications for enrolment;
- (c) review and decide upon any and all applications within ninety days of receipt;
- (d) approve applicants in accordance with the eligibility provisions of this chapter, record their names on a local enrolment list and forward the list, together with all relevant information and documents, to the Central Enrolment Board within thirty days of the approval;
- (e) forward the names of applicants who have been refused enrolment, together with all relevant information and documentation, including reasons for the refusal, to the Central Enrolment Board within thirty days of the decision to refuse;
- (f) notify all applicants for enrolment of the decision of the Local Enrolment Committee, and the reasons therefor, within thirty days of the decision;
- (g) indicate on the local enrolment list which participants have elected to participate as Dene or as Metis.

4.8.3 For the purposes of this section, the following or their successors shall be designated as communities:

Aklavik, Arctic Red River, Colville Lake, Detah, Edzo, Fort Franklin, Fort Good Hope, Fort Liard, Fort McPherson, Fort Norman, Fort Providence, Fort Rae, Fort Resolution (including Rocher River), Fort Smith Metis Local, Fort Simpson, Fitz/Smith Native Band, Hay River Town, Hay River Reserve, Inuvik, Jean Marie River, Kakiza, Lac La Martre, Nahanni Butte, Norman Wells, Pine Point, Rae Lake, Snare Lake, Snowdrift (including Fort Reliance), Trout Lake, Wrigley, Yellowknife City, Yellowknife Rainbow Valley.

#### 4.9 COSTS

- 4.9.1 (a) The Government of Canada shall pay the reasonable and necessary costs of the enumeration and voting process contemplated by 4.6 in an amount to be determined by Canada.
- (b) The Government of Canada shall pay the reasonable and necessary costs incurred by the Central Enrolment Board and the Local Enrolment Committees for an initial enrolment period not to exceed four years, which shall commence upon the date of the establishment of the Central Enrolment Board.
- (c) In determining reasonable and necessary costs under (b), the work done by the Local Enumeration Committees and the Dene/Metis Central Enumeration Board established pursuant to 4.6.1 and the payments made by the Government of Canada in respect of the enumeration and voting process, shall be taken into account.

#### 4.10 OTHER PROVISIONS

- 4.10.1 Nothing in this agreement shall be construed so as to imply that the Government of Canada has agreed to negotiate with those persons who are eligible to be



enrolled pursuant to 4.2.2 and 4.2.3 on the basis of their being the original inhabitants of the Mackenzie Basin.

- 4.10.2 The parties shall complete a review of this chapter within six months of the date of this agreement.

DENE/METIS ORGANIZATIONS

- 5.1.1 The Final Agreement shall describe the Dene/Metis organizations which will receive and manage compensation, benefits and title to lands provided by the Final Agreement, and which shall be responsible for the exercise of powers and the carrying out of obligations of the Dene/Metis and designated Dene/Metis organizations under the Final Agreement.
- 5.1.2 Dene/Metis organizations may be trusts or corporations established under laws of general application with such special provisions as set out in the Final Agreement.
- 5.1.3 Dene/Metis organizations shall be entirely owned and controlled by the Dene/Metis and membership or shareholdings shall be non-transferable.

- 6.1.1 (a) An Arbitration Board (the Board) shall be established to resolve disputes submitted to it in accordance with this agreement.
- (b) The Board is established when:
- (i) Canada, as represented by the Minister of Indian Affairs and Northern Development, the Government of the Northwest Territories and a designated Dene/Metis organization agree in writing it is established or
  - (ii) Canada, the Government of the Northwest Territories and the designated Dene/Metis organization have appointed at least one member each to the Board,
- whichever comes first.
- 6.1.2 The Board shall have nine members including a Chairman and a Vice-Chairman. Subject to 6.1.11, the Board may establish rules and procedures for the implementation of this chapter.
- 6.1.3 Canada, the Government of the Northwest Territories and the designated Dene/Metis organization will consult and attempt to reach consensus as to the persons to be appointed by them jointly to the Board.
- 6.1.4 If a consensus is not reached under 6.1.3 within one year of the date of settlement legislation, the Government of the Northwest Territories, the designated Dene/Metis organization and Canada may each appoint three members.
- 6.1.5 A quorum of the Board shall be three members, which in the case of a Board appointed under 6.1.4 shall consist of one member appointed by each of Canada, the Government

of the Northwest Territories and the designated Dene/Metis organization.

- 6.1.6 Any staff of the Board shall be provided by government. The Board shall prepare an annual budget, subject to review and approval by government. The approved expenses of the Board shall be a charge on government.
- 6.1.7 A dispute shall be arbitrated by a panel consisting of:
- (a) one arbitrator if agreed to by the parties to the arbitration, or
  - (b) three arbitrators, one of whom shall be appointed by the party making the submission to arbitration, one by the other party to the submission and the third to be selected by the two appointed arbitrators from the other members of the panel. Failing agreement, the third arbitrator shall be appointed by a judge pursuant to the Arbitration Act, (NWT).
- 6.1.8 An arbitration shall be convened by a submission to arbitration filed with the Board by any person or government having a right to arbitrate under this agreement. The submission shall name the other party to the dispute, set out the nature of the dispute, a summary of the facts, describe the issue to be arbitrated, name an arbitrator from the Board and describe the relief sought.
- 6.1.9 The other party to the dispute shall file a reply within 30 days responding to the submission, agreeing to the arbitrator named in the submission or naming another arbitrator from the Board and describing any relief sought.
- 6.1.10 (a) A designated Dene/Metis organization, Canada, and the Government of the Northwest Territories may



participate in any arbitration as a party on notice to the panel.

(b) The panel may allow any other person to participate in an arbitration, on application, if in the opinion of the panel the interest of that person may be affected by the arbitration, and on such terms as the panel in its discretion may order.

- 6.1.11 The panel shall have jurisdiction, after hearing the parties, to determine all questions of procedure, including the method of giving evidence, and to make an award, including interim relief, payment of interest and costs in accordance with this agreement.
- 6.1.12 It is intended that the process of arbitration will resolve disputes submitted to it in an informal and expeditious manner and therefore the decision of the arbitrators shall be conclusive and binding on the parties and shall not be challenged by appeal or review in any court except on the ground that the arbitrators have erred in law or exceeded their jurisdiction.
- 6.1.13 If a panel makes no decision as to costs, each party to an arbitration shall bear its own costs, and its proportionate share of the other costs of the arbitration including the remuneration and expenses of the panel.
- 6.1.14 The Arbitration Act, Northwest Territories shall apply to any arbitration to the extent not inconsistent with this chapter and a judge appointing an arbitrator under 6.1.7(b) is not restricted to members of the Board.
- 6.1.15 A public file of arbitration decisions shall be maintained by the Board.
- 6.1.16 The Board shall have jurisdiction to arbitrate in respect of any references to arbitration in this agreement, including:

- (a) restriction on harvesting (13.4.14),
- (b) right of first refusal to purchase a commercial operation or licence (13.9.15),
- (c) wildlife harvesting loss compensation (20.1.4),
- (d) terms and conditions of public, government and casual commercial access to Dene/Metis lands (22.1.7 and 22.3.2,
- (e) agreements in respect of military manoeuvres on Dene/Metis lands (22.3.3),
- (f) compensation for expropriation of Dene/Metis lands (23.1.8),
- (g) acquisition of Dene/Metis lands for public roads or utility corridors by local governments (25.3.3)
- (h) changes in local government boundaries (25.6.2), and
- (i) any matter concerning the interpretation of the Final Agreement on joint application of all parties to be bound by the decision.

6.1.17 The Supreme Court of the Northwest Territories shall have jurisdiction to review a decision of a panel on a question of law or jurisdiction.

6.1.18 Except in respect of disputes arbitrated under this chapter, nothing in this chapter affects the jurisdiction of any court.

6.1.19 Appointments by Canada under this chapter shall be made by the Minister of Indian Affairs and Northern Development.

## 6.2 TRANSITIONAL

- 6.2.1 Until an Arbitration Board is established, the Arbitration Act (NWT) applies to any arbitration described in 6.1.16.

## 7 RATIFICATION

- 7.1.1 The chief negotiators shall seek ratification by their respective principals of this agreement.

- (a) In the case of Canada, ratification of this agreement shall be the approval of Cabinet.
- (b) In the case of the Dene/Metis, ratification of this agreement shall be approval of the leadership of the Dene Nation and the Metis Association of the Northwest Territories.

- 7.1.2 (a) In the case of Canada, ratification of the Final Agreement shall be the approval of Cabinet and the enactment of settlement legislation.
- (b) In the case of the Dene/Metis, ratification of the Final Agreement shall be in a manner determined by the parties before Final Agreement.

**8            FINANCIAL COMPENSATION**

**8.1        CAPITAL TRANSFER PAYMENT**

8.1.1      Canada shall make a capital transfer payment to a designated Dene/Metis organization as financial compensation under the settlement in accordance with a schedule of payments to be negotiated prior to the Final Agreement and to be set forth in an annex to the Final Agreement.

8.1.2      The capital transfer payment shall be 453.3 million dollars valued at January 1, 1988 indexed to the date of settlement legislation as follows:

(a) from January 1, 1988 to July 1, 1990 by the greater of:

(i)        the Final Domestic Demand Implicit Price Index (FDDIPI),

and

(ii)      4% per annum,

and

(b) from July 2, 1990 by FDDIPI.

8.1.3      The capital transfer payment described in 8.1.2 includes 75 million dollars valued at December 31, 1985 in respect of the Norman Wells Proven Area, as set out in 9.3.1.

8.1.4      The capital transfer payment described in 8.1.2 includes a fund of 20 million dollars valued at July 1, 1990, payable at the date of settlement legislation.



- 8.1.5 (a) The present value of the stream of payments referred to in 8.1.1 shall equal the value of the capital transfer payment described in 8.1.2 as at the date of settlement legislation.
- (b) The present value referred to in (a) shall be calculated using a discount rate to be negotiated prior to the Final Agreement.
- (c) The schedule of payments shall not exceed 20 years from the date of settlement legislation.
- 8.1.6 Apart from the capital transfer payment, Canada shall pay to the Dene Nation and the Metis Association of the Northwest Territories or their successors jointly,
- (a) two million dollars on the signing of this agreement and a further
- (b) two million dollars one year after the signing of this agreement.

8.2 NEGOTIATION LOAN REPAYMENT

- 8.2.1 The Final Agreement shall describe the outstanding amount of negotiation loans of the Dene/Metis and establish a schedule of repayment, at 6% interest calculated annually not in advance, proportional to the schedule of payments by Canada to the Dene/Metis under 8.1.
- 8.2.2 Canada may set off any amount under 8.2.1 which is overdue against payments to be made under 8.1.

8.2.3 In all other respects, any other terms and conditions of the negotiation loans shall be unaffected.

8.3 LOANS AGAINST CAPITAL TRANSFER PAYMENT

8.3.1 At anytime after 3 years from the date of settlement legislation a designated Dene/Metis organization may request a loan from Canada against the then unpaid balance of the capital transfer payment.

8.3.2 Canada, as represented by the Minister of Finance, is authorized to make a loan under 8.3.1 on such terms and conditions as the Minister may agree and in accordance with 8.3.3.

8.3.3 A condition of any loan made under 8.3.2 shall be that the Dene/Metis pay at the time of the loan, an amount on any outstanding balance of negotiation loans described in 8.2.1 which will reduce the outstanding balance of those loans by the same proportion as the amount loaned under 8.3.2 bears to the unpaid balance of capital transfer payment in 8.1.2. The amount so paid shall be credited to the last payments of the schedule described in 8.2.1.

NORMAN WELLS PROVEN AREA

WHEREAS Canada holds the oil, gas and other hydrocarbons at Norman Wells (the "Proven Area") subject to an agreement dated July 21, 1944 between Imperial Oil Limited and His Majesty in right of Canada ("the Proven Area Agreement"), as amended and renewed from time to time; and

WHEREAS Canada and the Dene/Metis have agreed that an interest in the resources underlying the Proven Area is a proper subject for negotiations as part of a comprehensive land claims settlement; and

WHEREAS the Dene Nation and the Metis Association have agreed to work out between their respective organizations the structure and objectives of a special trust fund or funds to be set up to administer monies received pursuant to this Agreement for the benefit of the Dene and the Metis peoples for generations to come.

9.1 DEFINITIONS

9.1.1 In this chapter,

"Esso" means Imperial Oil Limited and Esso Resources (Canada) Limited, and their subsidiary corporations and their successors and assigns;

"Proven Area" means the area described in Schedule "A" to the Proven Area Agreement.

9.2 THE DENE/METIS HERITAGE TRUST

9.2.1 The Dene/Metis shall establish a trust fund or funds (hereinafter called "the Heritage Trust") to administer for the benefit of the Dene/Metis the payment described in 9.3.1.

9.2.2 The establishment, powers, responsibilities and tax status of the Heritage Trust shall be negotiated prior to the Final Agreement.

9.3 FINANCIAL BENEFITS TO THE DENE/METIS

9.3.1 Canada shall pay to the Dene/Metis the sum of seventy-five million dollars valued at December 31, 1985 as part of the capital transfer payment described in 8.1.

9.4 CONSULTATION WITH THE DENE/METIS

9.4.1 Government shall consult with a designated Dene/Metis organization with respect to those matters to be discussed with Esso or other parties on any amendment, renegotiation or renewal of the Proven Area Agreement or any new agreement for the development of the Proven Area and shall keep the Dene/Metis fully informed of the progress of such negotiations. The Dene/Metis shall treat such information as confidential if requested by Government to do so.

9.4.2 Government and the Dene/Metis shall establish a joint committee for the purpose of reviewing current and future operations pursuant to the Proven Area Agreement.

9.4.3 The joint committee shall meet periodically, but at least annually, to receive and consider reports and advise Esso with respect to such matters as:

(a) current operating results and expenditures;

(b) environmental monitoring and controls;

(c) community relations and liaison;

(d) employment and training of native and other local personnel;

(e) future development in the oil field.



9.4.4 The joint committee shall call an annual meeting in one of the Dene/Metis communities adjacent to and affected by the Proven Area, in order to present a report to the Dene/Metis including:

- (a) the previous year's operations, including appropriate financial information;
- (b) the environmental and other consequences of any incidents, spills, accidents and any resultant cleanup activities;
- (c) employment and training of the Dene/Metis in the project;
- (d) plans for the upcoming year or years;
- (e) other matters of concern to the Dene/Metis.

9.4.5 The joint committee may invite Esso to participate in its meetings and shall invite Esso to participate in the annual meeting mentioned in 9.4.4.

9.4.6 The costs associated with the joint committee established in 9.4.2 and the annual meeting described in 9.4.4 shall be negotiated prior to the Final Agreement.

## 9.5 RELEASE

9.5.1 Canada is discharged from all undertakings and obligations, if any, to the Dene/Metis in respect of the Proven Area other than those expressed in this agreement.

10            RESOURCE ROYALTY SHARING

10.1.1    In this chapter,

"resource" means mines and minerals whether solid, liquid or gaseous found in, on or under the settlement area, including the Norman Wells Proven Area.

"royalty" means any payment whether in cash or in kind required by government in respect of production of resources by reason of government's title to the resource.

10.1.2    Government shall pay to a designated Dene/Metis organization, annually, an amount equal to:

(a) 50% of the first two million dollars of resource royalty received by government, and

(b) 10% of any additional resource royalties received by government.

10.1.3    Government may limit the amount to be paid pursuant to 10.1.2 in any one year to the amount which if distributed equally to all participants would result in a Dene/Metis average per capita income equal to the Canadian average per capita income.

10.1.4    The method of payment and any other matter required to implement this chapter shall be negotiated prior to the Final Agreement.

10.1.5    Where Government consults outside of Government on any proposed changes to the fiscal regime which will change the resource royalty regime, it shall also consult with a designated Dene/Metis organization.

11        TAXATION

11.1      INSTALLMENTS OF COMPENSATION AND OTHER PAYMENTS

11.1.1    There shall be no federal, territorial or local government tax or other similar charges exigible in respect of the payment to or receipt by a Dene/Metis Organization of the following amounts paid by the Government of Canada pursuant to settlement legislation:

- (a) any capital transfer referred to in chapter 8; and
- (b) any capital transfer with respect to resource property funded from the first \$20 million payable pursuant to chapter 10.
- (c) any loan against capital transfer payments described in 8.3.

11.1.2    Subject to 11.2.3, 11.2.5 and 11.2.6 there shall be no federal, territorial or local government tax or other similar charges exigible in respect of the payment to or receipt by a Settlement Corporation (as described in Annex A to this chapter) of the following amounts:

- (a) income earned upon monies referred to in 11.1.1(a) or (b);
- (b) any amount received from another Settlement Corporation;
- (c) monies received in respect of activities referred to in Annex B carried on by the Settlement Corporation; and
- (d) income earned upon monies referred to in 11.1.1(c) up to the amount of interest paid.

11.1.3 Any income earned on an amount described in 11.1.1(a), (b) or (c) received by a person other than a Settlement Corporation shall be subject to federal, territorial or local government tax or other similar charges as exigible under the laws of general application.

11.2 DENE/METIS LAND CLAIMS SETTLEMENT CORPORATIONS

The Dene/Metis shall incorporate one or more Settlement Corporations the main purpose of each of which will be to carry out the permitted activities set out in Annex B subject to the provisions of this chapter.

Description

11.2.1 (a) A Settlement Corporation shall be a corporation named and described in Annex A to this chapter to be set out in the Final Agreement without share capital. All or substantially all of the activities of the Settlement Corporation shall be for the general benefit of the participants.

(b) A Settlement Corporation shall not receive any property as a contribution of capital other than any amount in respect of a capital transfer payment referred to in 11.1.1(a) or (b).

Disbursement Requirement

11.2.2 A Settlement Corporation shall be subject to the disbursement rules applicable to "public foundations" under the Income Tax Act (the "Act") as amended from time to time, provided that such rules shall not be applicable to a Settlement Corporation during the first 15 years after the day of payment by the Government of Canada of the first capital transfer instalment.

Qualified Investment

11.2.3 (a) A Settlement Corporation shall invest only in accordance with the provisions of Schedule III of the



Pension Benefit Standards Act as amended from time to time.

(b) A Settlement Corporation or a group of Settlement Corporations shall not control directly or indirectly in any manner whatever a corporation, partnership or other entity which carries out a business.

(c) A Settlement Corporation shall be subject to the foreign property rules set out in Part XI of the Act as amended from time to time..

#### Information Returns

11.2.4 A Settlement Corporation shall be subject to the reporting rules required for the purposes of the provisions of the statutes and regulations referred to in this agreement.

#### Taxation of Settlement Corporation

11.2.5 The taxable income of a Settlement Corporation for a taxation year, except for purposes of Part XI of the Act, shall be deemed to be an amount equal to:

$$\frac{A}{1-B} + C$$

where:

(a) A = the aggregate of all amounts disbursed, distributed or expended in the year, other than amounts

(i) disbursed or expended on activities referred to in Annex B to this chapter; or

(ii) amounts paid in respect of taxes payable by the Settlement Corporation under this agreement;

(b) B = the maximum federal corporate tax rate applicable to public corporations for the year before deducting the territorial abatement, including surtaxes, if any.

(c) C = the aggregate of any amount

(i) received by a Settlement Corporation, other than amounts described in 11.1.1 and 11.1.2.

(ii) paid by a Settlement Corporation and exempt from taxation on its recipient on the basis of paragraphs 81(1)(a) of Act and 87(b) of the Indian Act;

Any taxable income of a Settlement Corporation shall be taxed at the maximum federal and territorial corporate tax rates applicable to public corporations for the year and including surtaxes, if any.

11.2.6 A settlement corporation will be liable to pay tax under Part XI of the Act in accordance with the provisions thereof.

#### Revocation of Settlement Corporation Status

11.2.7 (a) Where the Minister of National Revenue is of the opinion that a Settlement Corporation is in breach of its obligations as described in this agreement, the Minister may notify the Settlement Corporation in writing that it has committed a default and if the Settlement Corporation does not address the default to the satisfaction of the Minister within 100 days after the registered mailing of such notice, the Minister may revoke the status of the Settlement Corporation, subject to the same right of appeal as that applicable in respect of a revocation of the registration of a registered charity as set out in the Act and amended from time to time.

- (b) If the Minister revokes the status of a Settlement Corporation, the corporation shall be deemed to have disposed of all its assets immediately before the time of such revocation for proceeds of disposition equal to the fair market value thereof at the time of revocation and to have reacquired such assets immediately after the time of revocation at a cost equal to such fair market value and, for the purpose of 11.2.5, be deemed to have expended, immediately before the time of revocation, on activities not referred to in Annex B to this chapter, the amount by which such fair market value exceeds the total of all amounts that may reasonably be considered to be capital transfer payments to the Settlement Corporation by the Government of Canada.
- (c) For the purpose of (a), the distribution of the capital referred to in 11.1.1 (a) or (b) that may reasonably be considered to be capital transfer payment referred to in 11.1.1 by a Settlement Corporation to Participants shall not be considered a cause for the revocation of a Settlement Corporation.

#### Winding-Up

11.2.8 Where a Settlement Corporation has been wound-up or liquidated, the Settlement Corporation shall be deemed to have had a taxation year ending immediately before the time of winding-up or liquidation, and the amount distributed on the winding-up or liquidation less the aggregate of:

- (a) the amount disbursed or expended in the course of the winding-up or liquidation on activities referred to in Annex B to this chapter;
- (b) all amounts transferred to another Settlement Corporation; and

(c) all amounts originally received under 11.1.1(a) or (b) which are transferred to a Dene/Metis organization which complies with the requirements of 5.1.2 and 5.1.3,

shall be included in the income of the Settlement Corporation for the purpose of 11.2.5 for that taxation year.

#### Taxation of Participants or Dene/Metis Organizations

11.2.9 There shall be no federal, territorial or local government tax or other similar charge payable by a Participant, a Dene/Metis Organization or a corporation controlled, directly or indirectly in any manner whatever by one or more Participants or Dene/Metis Organizations, in respect of amounts distributed to a Participant or Dene/Metis Organization, or such corporation in accordance with Annex B (except for paragraphs 9 and 10.5), in respect of that Participant or Dene/Metis Organization or such Corporation, other than amounts distributed to or disbursed or expended in respect of a Participant or Dene/Metis Organization or such corporation by a Settlement Corporation as consideration for value provided to the Settlement Corporation by that Participant, Dene/Metis Organization or corporation.

11.2.10 Except as otherwise provided in this agreement, a Settlement Corporation shall be subject to the laws applicable to a public foundation, as amended from time to time.

#### 11.3 DENE/METIS SETTLEMENT LANDS AND DEPRECIABLE PROPERTY

##### Acquisition

11.3.1 The cost of acquisition to a Participant or to an Organization of any real property acquired under this agreement, other than depreciable property, transferred to it by the Government of Canada shall, for the purposes



of the Act, be deemed to be an amount equal to the fair market value thereof at the earlier of the time at which title to such property is registered in the name of the Participant or the Organization, or any right or interest in such property is acquired by the Participant or the Organization.

#### Disposition

- 11.3.2 Where any real property acquired under this agreement, other than depreciable property, is disposed of by a Dene/Metis Organization (the transferor)
- (a) to a Participant (the transferee), and such real property has not previously been disposed of by a Dene/Metis Organization to another Participant, or
  - (b) within ten years of the transfer by the Government of Canada of such property to a Dene/Metis Organization, from that Dene/Metis Organization to another Dene/Metis Organization (the transferee),
- the real property shall, for the purposes of the Act, be deemed to have been disposed of by the transferor for proceeds of disposition equal to the greater of the amount that would otherwise be the proceeds of disposition and the adjusted cost base to the transferor of the real property at that time and to have been acquired by the transferee at a cost equal to the amount at which it was deemed to have been disposed of.

#### Depreciable Property

- 11.3.3 The rules of 11.3.2 shall apply to depreciable property with such modifications as the circumstances require.

#### Taxes on Transfer of Lands

- 11.3.4 No federal, territorial, or local government charge, levy or tax shall be payable in respect of the transfer to or receipt by a Dene/Metis organization under 21.1.6 of

lands pursuant to 21.1.1. Any application of this clause to subsequent transfers will be set out in the Final Agreement.

#### Real Property Taxation of Settlement Lands

- 11.4.1 Unimproved Dene/Metis settlement lands are exempt from real property taxation. Improvements which are used primarily for wildlife harvesting or other traditional purposes, including cabins, camps, and tent frames, are not subject to real property taxation.
- 11.4.2 Subject to 11.4.1, Dene/Metis settlement lands are subject to real property taxation under laws of general application.
- 11.4.3 Dene/Metis settlement lands which are leased or occupied by a non-participant are subject to real property taxation pursuant to laws of general application.
- 11.4.4 Dene/Metis settlement lands shall not be seized or sold for taxes.
- 11.4.5 Should a Dene/Metis participant or other person who occupies Dene/Metis lands fail to pay real property taxes levied against such participant or other person in respect of such lands when such taxes are in arrears for a period of one year or more, the designated Dene/Metis organization which holds title shall be liable to pay such taxes after notice from government.

#### 11.5 INDIAN ACT

- 11.5.1 Section 87 of the Indian Act shall apply to:
  - (a) the interest of an Indian or Band in any reserve or surrendered lands in the Settlement Area, and
  - (b) the personal property of an Indian or a Band situated on a reserve in the Settlement Area.

- 11.5.2 In 11.5.1, "Band" has the same meaning as in the Indian Act and "Indian" means a person who is eligible to be a participant who qualifies for the exemption in s.87 of the Indian Act and who is ordinarily resident on the reserve or is a member of the band for which the reserve is set apart and no other band.
- 11.5.3 The provisions of 11.5 shall not be construed to affect the application of s.87 in respect of any person who is not eligible to participate in this agreement.
- 11.5.4 The provisions of 11.5 shall not be construed to affect the authority of Parliament to amend or repeal Section 87 of the Indian Act.
- 11.6 ADMINISTRATION AND ENFORCEMENT
- 11.6.1 The Minister of National Revenue (the "Minister") shall be responsible for the administration and enforcement of the provisions of this agreement that relate to income taxation and to that end may seek the advice of the Minister of IAND with respect to any matter arising out of these provisions.
- 11.6.2 The Superintendent of Financial Institutions shall be responsible for the administration and enforcement of the provisions of this agreement that relate to regulation of qualified investments of Settlement Corporations.
- 11.6.3 Every Settlement Corporation shall keep records and books of accounts at its main office in Canada or at such other place as may be designated by the Minister, in such form and containing such information as will enable the determination of income, taxable income, tax or other amount payable by or refundable to a Settlement Corporation or any other amount that is relevant for the purposes of computing any amount under this agreement or the Act.

11.6.4 Every Settlement Corporation shall produce every year a report issued by a public accountant who has audited the Settlement Corporation providing the Minister and the Superintendent of Financial Institutions with the information required to administer the provisions of this chapter.

11.7 IMPLEMENTATION

11.7.1 The Act may be amended to provide for the implementation of this agreement.



## ANNEX A

### SETTLEMENT CORPORATIONS

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## ANNEX B

### SETTLEMENT CORPORATIONS

1. For the purposes of this annex a "low income participant" is a participant whose total family income is less than 75% of the NWT average.

#### Program Funding and Administration

2. Supplementing existing programs relating to child care, adoption, alcohol and drug abuse, hospital construction or upgrading, medical, dental and mental health care and similar programs and initiating, funding and administering new programs in those areas.

#### Housing and Municipal and Local Taxes Assistance

3. Funding or providing
  - (a) low interest or no interest mortgages or other loans to low income participants to enable them to acquire freehold or leasehold interests in residential properties in the Northwest Territories or elsewhere,
  - (b) grants or forgivable loans to low income participants to enable them to make down payments on conventional purchases of residential properties,
  - (c) funds for construction, operation and administration of subsidized cooperative or communal housing for low income participants in the Northwest Territories or elsewhere,
  - (d) funds for the renovation or repair of residential properties owned or leased by low income participants in the Northwest Territories or elsewhere, and
  - (e) financial assistance to low income participants to enable them to pay municipal or other local taxes.

#### Municipal Services Upgrading

4. Funding and administering municipal services and utility upgrading for the benefit of participants.

## Education and Training

### 5. Funding or providing

- (a) courses for non-native and native teachers and other instructors to enable them to conduct courses in native culture, language, and similar areas,
- (b) training for native elders to enable them to participate in the delivery of native culture and language instructional programs,
- (c) native studies, cultural languages programs for participants and research relating thereto,
- (d) scholarships for participants to enable them to attend educational institutions within and outside the Northwest Territories,
- (e) vocational training and similar programs for participants within and outside the Northwest Territories,
- (f) native language and cultural teaching research programs, and
- (g) training for persons employed in connection with native justice programs and research related thereto.

## Economic Development

### 6. Providing loan guarantees or minority capital investment to participants or to a taxable entity, other than a corporation which is controlled by one or more Settlement Corporations, engaged in an economic activity or promotion of economic development within and outside the Northwest Territories provided that:

- (a) the participant or entity is unable to borrow at normal commercial rates from ordinary commercial lenders without guarantees provided by the Settlement Corporation, and
- (b) the settlement corporation may not acquire a controlling equity interest in an entity except by way of realization of its security in which case its controlling interest in the entity shall be disposed of within one year of its acquisition.

## Traditional Harvesting and Cultural Activities

### 7. Providing loans or equity to participants or entities for traditional harvesting and cultural activities including manufacture of handicrafts, arts and crafts, hunting, fishing and trapping and like pursuits provided that:

- (a) the participant or entity is unable to borrow at normal commercial rates from ordinary commercial lenders without guarantees provided by the Settlement Corporation, and

- (b) the settlement corporation may not acquire a controlling equity interest in an entity except by way of realization of its security in which case its controlling interest in the entity shall be disposed of within one year of its acquisition.
- (c) the settlement corporation does not contract to receive a rate of return on any such loan greater than the normal commercial rate of return for similar investments, or less than the prime rate of interest charged by chartered banks in the settlement area.

#### Recreational Lands

- 8. Funding and administering parks and other recreational facilities such as skating rinks, arenas, libraries, assembly halls and similar facilities for participants.

#### Elders Assistance

- 9. Providing funding to confer benefits on participants who are at least sixty years of age, provided such participants reach sixty years of age within five years of the date of settlement legislation and provided such benefits do not exceed \$3,000/individual/year (1988 dollars).

- 10. Other Permitted Costs and Disbursements by a Settlement Corporation

- 1. Settlement Costs
  - 2. Implementation Costs
  - 3. Administrative Costs

Payment of reasonable administrative costs not to exceed 5% of the assets of the Settlement Corporation annually for the first five years after Settlement Legislation and 3% per year thereafter.

- 4. Transfer to Other Settlement Corporations or to Registered Charities
  - 5. Transfers to low income Participants
- 11. A Settlement Corporation may borrow money from time to time to carry out activities under this Annex.

## **12        Economic Measures**

**12.1.1.1** Government economic development programs in the settlement area shall take into account the following objectives:

- (a) that the traditional Dene/Metis economy should be maintained and strengthened; and
- (b) that the Dene/Metis should be economically self-sufficient.

**12.1.1.2** To achieve the objectives in **12.1.1** government shall take such measures as it considers reasonable, in light of its fiscal responsibility and economic objectives, including:

- (a) support of the traditional economy and individual harvesters and promotion of the marketing of renewable resource products and native manufactured goods;
- (b) assistance in the development of commercially viable Dene/Metis businesses and enterprises, and when necessary, identification of possible sources of financial assistance;
- (c) provision of business and economic training and educational assistance to the Dene/Metis so that they may be able to participate more effectively in the northern economy; and
- (d) encouragement of the employment of Dene/Metis in the settlement area, including employment in major projects and developments, in the public service and public agencies.

**12.1.1.3** Where government proposes economic development programs related to the objectives in **12.1.1** government shall consult with the Dene/Metis.



12.1.4 These objectives are intended to be achieved through economic development programs of general or specific application which are in place from time to time without imposing any additional financial obligation on government.

## 13 WILDLIFE HARVESTING AND MANAGEMENT

### 13.1 OBJECTIVES

13.1.1 This chapter has the following objectives:

- (a) to protect for the future the right of the Dene/Metis to gather, hunt, trap and fish throughout the settlement area at all seasons of the year;
- (b) to conserve and protect wildlife and wildlife habitat and to apply conservation principles and practices through planning and management;
- (c) to provide the Dene/Metis with certain exclusive, preferential and other harvesting rights and economic opportunities related to wildlife;
- (d) to respect the harvesting and wildlife management customs and practices of the Dene/Metis and provide for their on-going needs for wildlife;
- (e) to involve the Dene/Metis in a direct and meaningful manner in the planning and management of wildlife and wildlife habitat;
- (f) to integrate planning and management of wildlife and wildlife habitat with the planning and management of all types of land and water use in order to protect wildlife and wildlife habitat;
- (g) to ensure that traditional harvesting by other aboriginal peoples who have harvested in the settlement area can be accommodated in the Dene/Metis settlement; and
- (h) to deal fairly and equitably with persons who hunt, trap, fish or conduct commercial wildlife activities in the settlement area and who are not participants.

13.2 DEFINITION

13.2.1 In this chapter,

"Board" means the Wildlife Management Board;

13.3 GENERAL

13.3.1 Government retains the ultimate jurisdiction for the management of wildlife and wildlife habitat. Government will continue to have the jurisdiction to initiate programs and to enact legislation with respect to the settlement area which are not inconsistent with this agreement.

13.3.2 The exercise of the rights of the Dene/Metis under this chapter are subject to legislation enacted for reasons of conservation, public health or public safety, in addition to any other limitations provided for in this agreement.

13.3.3 Nothing in this agreement is intended to confer rights of ownership in any wildlife.

13.3.4 Nothing in this chapter shall be construed as granting a participant any right to buy, sell or offer for sale any migratory game bird, migratory game bird's egg or parts thereof not authorized for sale by law.

13.3.5 The right to harvest wildlife pursuant to this chapter does not extend to migratory non-game birds and migratory insectivorous birds as defined in the Migratory Birds Convention Act, R.S.C. 1970, c. M-12.

13.3.6 Recognizing the present restrictions of the Migratory Birds Convention Act, Canada agrees to make its best efforts to achieve international agreement to permit the Dene/Metis to hunt migratory game birds in the spring.

#### 13.4 Harvesting

- 13.4.1 The Dene/Metis have the right to harvest all species and populations of wildlife within the settlement area at all seasons of the year subject to limitations which may be prescribed in accordance with this agreement.
- 13.4.2 The right described in 13.4.1 does not preclude non-participants from harvesting in accordance with legislation.
- 13.4.3 (a) Subject to the provisions of this agreement, the Dene/Metis have the exclusive right to harvest wildlife on Dene/Metis lands.
- (b) No member of the public may harvest wildlife on waters within Dene/Metis lands, other than fish or migratory birds as provided in this agreement.
- 13.4.4 (a) Where the objectives of the parties cannot be met through the process of land selection, negotiations at the time of land selection may provide the Dene/Metis with special harvesting areas for fish and for other species of wildlife. Such areas and the conditions attaching thereto, will be set out in the Final Agreement.
- (b) Non-participants shall have access to such areas for any purpose not inconsistent with the special harvesting by the Dene/Metis.
- (c) The Board may change or remove any such special harvesting areas and the conditions attached thereto, with the consent of the affected Dene/Metis Local Wildlife Management Council.
- 13.4.5 The Dene/Metis will have the exclusive right to harvest moose within such Dene/Metis moose harvesting areas as may be established, except during a season in the fall of



the year when resident non-participants may harvest moose in such areas in accordance with legislation. The season shall be no longer than 90 days in duration and shall close no later than the 16th day of December in any calendar year.

- 13.4.6 The Dene/Metis have the exclusive right to harvest furbearers throughout the settlement area. Non-participants may hunt, but not trap, wolves and coyotes throughout the settlement area in accordance with legislation.
- 13.4.7 A Dene/Metis local council may permit any person, within the limits prescribed by laws affecting wildlife harvesting and management and by this agreement, to harvest wildlife from the lands referred to in 13.4.3, to harvest wildlife to which the Dene/Metis have been granted special harvesting rights in 13.4.4, to harvest moose from lands referred to in 13.4.5, and to harvest furbearers throughout the settlement area, upon terms and conditions respecting species, location, methods, quantities, seasons, and duration of harvest as may be set by the council. In the case of 13.4.4, and 13.4.5, such permission may only be granted for the period of Dene/Metis exclusive use and in respect of the species for which the special harvesting area was established.
- 13.4.8 Where a Dene/Metis local council has granted or refused permission to a resident non-participant to harvest furbearers on lands which are not Dene/Metis lands and on which furbearers are not being harvested, such resident non-participant may apply in writing to the Board for a review of such refusal or of the terms and conditions attached to any permission. The Board may set aside the decision of the Dene/Metis local council and may substitute its own decision together with terms and conditions, if the Board determines that it is

reasonable, in all the circumstances, to do so. The decision of the Board shall not be subject to review by the Minister.

13.4.9 Where in accordance with this chapter, a Dene/Metis local council permits non-participants to harvest wildlife, harvesting by those persons shall be in accordance with legislation and such conditions as may be set by the Dene/Metis local council. Where such permission is granted to non-participants, the resulting harvest will not be included in the Dene/Metis needs level, established pursuant to 13.5.

13.4.10 The Dene/Metis shall not charge a fee or receive a benefit for the act of granting a non participant permission to harvest wildlife. The Dene/Metis may charge a fee or obtain a benefit:

- (a) for granting access to Dene/Metis lands to a non-participant for harvesting; or
- (b) for services provided to a non-participant in connection with harvesting wildlife.

13.4.11 (a) The Dene/Metis have the right of access to all lands within the settlement area for the purpose of harvesting wildlife, subject to 13.4.11(b) and 13.4.13 and 13.4.14.

(b) The exercise of the right of access provided by 13.4.11(a) to lands owned in fee simple or subject to an agreement for sale or a surface lease, is subject to the following conditions:

- (i) that there be no significant damage to the lands, and the user shall be responsible for any such damage;

- (ii) there be no mischief committed on the lands;  
and
- (iii) there be no significant interference with the occupier's use of, and peaceable enjoyment of, the lands;
- (iv) unless otherwise provided for in an agreement with the owner or occupier, Dene/Metis using this right of access do so at their own risk and have no right of action against the owner or occupier for alleged loss suffered or damage arising therefrom.

13.4.12 (a) The Dene/Metis right of access granted by 13.4.11 includes the right to travel and establish and maintain hunting, trapping and fishing camps. For the purposes of this section, a camp is a facility established for the personal use of participants for the purpose of wildlife harvesting.

(b) Where the Dene/Metis right of access granted by 13.4.11 applies to lands outside municipal boundaries of more than 320 acres which after the date of settlement legislation are owned in fee simple, subject to an agreement for sale or a surface lease, the right includes the use of plants and trees ancillary to wildlife harvesting.

13.4.13 The right of access granted by 13.4.11 shall not extend to:

(a) lands dedicated to military or national security purposes pursuant to legislation or areas temporarily being used for military exercises, after notice of such dedication or use has been given to the affected Dene/Metis community or communities;

- (b) lands which at the date of settlement legislation, are owned in fee simple or are subject to an agreement for sale or to a surface lease;
- (c) lands within municipal boundaries which, after the date of settlement legislation are granted in fee simple, made subject to an agreement for sale or to a surface lease;
- (d) land outside municipal boundaries of 320 acres or less in surface area which, after the date of settlement legislation are owned in fee simple, or made subject to an agreement for sale or to a surface lease;
- (e) lands the right of access to which is restricted in accordance with 13.4.14.

**13.4.14** (a) It is recognized that some uses of land, which may be authorized in the future, may conflict with harvesting activities and thus be incompatible with the exercise of Dene/Metis harvesting rights;

(b) If Government or a holder of an interest in land (hereinafter "the proponent") proposes that the right of access granted in 13.4.11 should be restricted because a proposed use of land would conflict with harvesting, the proponent, after consultation with the Dene/Metis with respect to the proposal, shall give notice to any other holder of an interest in the land and to any Dene/Metis local councils established for the area in which the land is situated specifying the nature, extent, duration and conditions as well as a proposal for public notice of the proposed restriction.

(c) Any Dene/Metis local council or holder of an interest in the land to which the notice has been sent may,



within 60 days of receipt of the notice, or such other period as the Board may establish, refer the proposal to an arbitrator appointed pursuant to the arbitration procedure set out in this agreement, who shall determine:

- (i) whether the proposed use conflicts with harvesting, and if so,
  - (ii) the nature, extent, duration, and conditions of the restriction on access for harvesting, including the establishment and maintenance of hunting, trapping and fishing camps required to allow the proposed use.
- (d) An arbitrator shall ensure that a restriction will only apply for as long as the land is in actual use and only to the extent necessary to permit the proposed use without conflict.
- (e) Where no reference to arbitration is made pursuant to (c), the proposed restriction will come into effect, according to the terms specified in the notice described in (b).
- (f) The arbitration proceedings will be designed to ensure that, to the extent possible, expense and delay are kept to a minimum;
- (g) A decision of an arbitrator may, on the consent of all parties to be affected, be extended to apply to lands which were not the subject of the arbitration proceedings.

13.4.15 The Dene/Metis have the right to employ any methods of harvesting and to possess and use any equipment for the purpose of harvesting, subject to legislation respecting the humane harvesting of wildlife. Government agrees that no legislation respecting the humane harvesting of

wildlife will be introduced without prior consultation with the Dene/Metis and federal and provincial jurisdictions concerned.

13.4.16 The exercise of the rights of the Dene/Metis in 13.4.11, 13.4.15, 13.7.1 and 13.8.1 are subject to legislation for the protection of the environment from significant damage.

13.4.17 (a) The Dene/Metis have the right to give, trade, barter or sell all edible wildlife products harvested by them to:

(i) other Dene/Metis;

(ii) beneficiaries of land claim agreements adjacent to the settlement area for their personal consumption, when provided for in overlap agreements;

(iii) other aboriginal persons who reside in or adjacent to the settlement area and who harvest wildlife in the settlement area for their personal consumption.

(b) Nothing in this section is intended to confer any rights on any persons other than the Dene/Metis.

(c) The right provided in 13.4.17 is intended to maintain traditional sharing among individuals and communities and is not to be exercised for profit. The Board may regulate such trade, barter or sale but only to ensure it is not for profit. Notwithstanding 13.10.28, the Minister may review any such regulation only for purposes of conservation, public safety or public health.

13.4.18 The Dene/Metis have the right to give, trade, barter or sell to any person, any non-edible products of wildlife

that are obtained from the harvesting of furbearers or incidentally from the harvesting of wildlife for personal use.

- 13.4.19 The right to harvest wildlife includes the right to possess and transport wildlife parts and products in the settlement area and elsewhere in the Northwest Territories, and in other areas where provided for in an overlap agreement.
- 13.4.20 Participants will be required to show proof of enrolment under this agreement pursuant to conditions established by the Board. The Board may require participants to obtain permits or licences for the purpose of regulating harvesting, but participants shall not be required to pay any fee or tax for any non-commercial permit or licence.
- 13.4.21 Notwithstanding the description of the settlement area and subject to the Final Agreement, harvesting by the Dene/Metis in areas of their traditional and current use outside of the settlement area is not intended to be prejudicially affected by these provisions.
- 13.4.22 Nothing in this agreement prevents any person from killing wildlife in the settlement area for survival in an emergency.

## 13.5 LIMITATION OF THE HARVEST

- 13.5.1 The board may limit the quantity of the Dene/Metis harvest in accordance with the procedure set out in this section.
- 13.5.2 The Board may, in accordance with this chapter, establish, modify or remove total allowable harvest levels from time to time in the settlement area but shall establish or modify such levels only if required for conservation and to the extent necessary to achieve conservation. Unless a total allowable harvest is

established, the quantity of the Dene/Metis harvest may not be limited.

13.5.3 Where a total allowable harvest has been established, the Board shall allocate for the Dene/Metis a portion or all of the total allowable harvest, hereinafter called the "Dene/Metis needs level." When the Dene/Metis needs level equals or is less than the total allowable harvest it shall constitute a first demand on the total allowable harvest. When the Dene/Metis needs level is greater than the total allowable harvest, the Dene/Metis shall be allocated not more than the total allowable harvest.

13.5.4 The Board may establish the total allowable harvest and the Dene/Metis needs level for a particular wildlife species or population applicable to the settlement area as a whole, or to particular areas or communities. The Board may adjust the Dene/Metis needs level from time to time.

13.5.5 When establishing and adjusting a Dene/Metis needs level, the Board shall consult with Dene/Metis councils and shall consider all relevant factors including in particular:

- (a) the usage patterns and levels of past harvests of the Dene/Metis;
- (b) personal consumption needs of the Dene/Metis, including nutritional, clothing and cultural needs and fish for their dogs;
- (c) gifts, trade, barter and sale among the Dene/Metis to meet their needs described in (b);
- (d) the availability of various wildlife species and populations to meet these needs.



- 13.5.6 A Mackenzie Basin Harvest Study shall be conducted in order to provide necessary information for the Board and Government to effectively manage wildlife. The terms of reference for the harvest study will be set out in the Final Agreement.
- 13.5.7 Except when the total allowable harvest is less than the Dene/Metis minimum needs level established pursuant to 13.5.8 or 13.5.9, the Dene/Metis needs level may be established above or at, but shall never be established below the Dene/Metis minimum needs level.
- 13.5.8 When the study described in 13.5.6 has been completed, the Dene/Metis minimum needs level for a species or population of wildlife shall be equal to one-half of the sum of the average annual Dene/Metis harvest level over the first five years of the study and the greatest amount taken in any one of those five years, which calculation is expressed mathematically as:

$$\begin{array}{lcl} \text{Dene/Metis} & & (h_1 + h_2 + h_3 + h_4 + h_5) + h_{\max} \\ \text{Minimum} & = & \text{-----} \quad \times 1/2 \\ \text{Needs Level} & & 5 \end{array}$$

- 13.5.9 (a) Until the study described in 13.5.6 is completed, and when a total allowable harvest is established, the Board shall set the Dene/Metis minimum needs level in accordance with the calculation in 13.5.8, using the best information available to estimate the annual harvest levels for the five years prior to establishment of the total allowable harvest. The Board may review and adjust such minimum needs level as the study data becomes available.
- (b) Notwithstanding 13.5.7, if the Dene/Metis or the appropriate Dene/Metis regional or local council advises the Board that the Dene/Metis needs level for a particular species, population or area will not be

required in a particular harvesting period, the Board may allocate such unrequired portion, or a part thereof, pursuant to 13.5.16.

**13.5.10** Subsections 13.5.11 to 13.5.15 shall apply to the species named therein, notwithstanding the provisions of 13.5.1 to 13.5.9.

**13.5.11** Bison

(a) In the case of transplanted, free-roaming wood bison herds, such as the herds in the area of Fort Providence and the Liard Valley, the Board, after consultation with the affected Dene/Metis local council with respect to location, methods, quantities, seasons and like matters, shall allocate a portion of the total allowable harvest for resident non-participants, and may establish policies and recommend regulations for harvesting by such non-participants.

(b) In the case of free-roaming bison in the Slave River Lowlands outside Wood Buffalo National Park, the Board, after consultation with the affected Dene/Metis local council with respect to location, methods, quantities, seasons and like matters, may allocate a portion of the total allowable harvest in excess of the Dene/Metis needs level for resident non-participants.

**13.5.12** Muskox

In the case of muskox, the Board, after consultation with the affected Dene/Metis local council with respect to location, methods, quantities, seasons and like matters, shall allocate a portion of the total allowable harvest for resident non-participants, and may establish policies and recommend regulations for harvesting by such non-participants.

#### 13.5.13 Moose and Barrenground Caribou

In the case of moose and barrenground caribou, the Board, after consultation with the affected Dene/Metis local councils with respect to location, methods, quantities, seasons and like matters, shall allocate a portion of any total allowable harvest in excess of the Dene/Metis needs level for resident non-participants, and may establish policies and recommend regulations for harvesting by such non-participants.

#### 13.5.14 Sheep

Although the annual harvest is highly variable, sheep in the Mackenzie Mountains are an important food species for certain Dene/Metis communities. In the case of sheep in the Mackenzie Mountains, the Board shall allocate a portion of any total allowable harvest in excess of the Dene/Metis minimum needs level for resident non-participants. For the purpose of this section, Mackenzie Mountains means Unit E as described in N.W.T. Wildlife Management Unit Regulations (R-057-83).

#### 13.5.15 Migratory Game Birds

(a) The Board may, in accordance with the provisions of this agreement, establish the total allowable harvest of migratory game birds for the settlement area.

(i) Recognizing the national and international responsibilities of the Minister, the Board shall ensure that the total allowable harvest figures are received by the Minister on a date, to be specified by the Minister, that will allow consideration of such total allowable harvest for the settlement area when regulations for other users who harvest the same migratory game bird species outside the settlement area are being established. If such figures are not received by the Minister

by the specified date, the Minister may establish the total allowable harvest for the settlement area forthwith and advise the Board accordingly.

(ii) The total allowable harvest for a migratory game bird species or population for the settlement area shall always be set at a percentage at least equal to the percentage that the settlement area harvest, as determined in (b)(i), bears to the total harvest of such migratory game bird species or population throughout Canada during the same period.

(iii) The total harvest figures for Canada of each migratory game bird species or population harvested in the settlement area shall be provided to the Board by the Minister as required to enable the Board to establish the total allowable harvest for the settlement area.

(b) The Board shall establish the Dene/Metis minimum needs level for migratory game birds in the following manner:

(i) The total annual harvest for a migratory game bird species or population in the settlement area and the harvest by the Dene/Metis and by non-participants will be determined for 5 consecutive years and the average annual harvest by Dene/Metis and by non-participants will be calculated.

(ii) The percentage of the Dene/Metis average annual harvest of the total average annual harvest for migratory game bird species or



populations in the settlement area will be determined for such migratory game bird species or populations.

(iii) The total allowable harvest in any one year for such species or population, multiplied by the percentage determined in (b)(ii), will constitute the Dene/Metis minimum needs level for that year.

(c) Canada shall consult the Board in developing Canadian positions for international consultations and negotiations relevant to migratory bird management in the settlement area.

#### Allocation

13.5.16 In allocating any total allowable harvest in excess of the Dene/Metis needs level, the Board shall consider all relevant factors, including the following factors (which are not intended to be in order of priority):

- (a) requirements of non-participants who are long-term residents of the settlement area and who rely on wildlife for food for themselves, their families and their dogs;
- (b) demand for hunting and sport fishing by:
  - (i) resident non-participants; and
  - (ii) non-resident non-participants;
- (c) commercial demand inside and outside the settlement area;
- (d) personal consumption needs of other aboriginal peoples who have harvesting rights in the settlement area; and
- (e) demand by lodges and outfitters.

**13.6**      MANAGEMENT OF MIGRATORY SPECIES

- 13.6.1**    Government undertakes that plans for wildlife management and habitat management will be designed to maintain or enhance the productivity of populations of migratory species within the Northwest Territories and Yukon Territory in an integrated fashion.
- 13.6.2**    Each management agreement negotiated with respect to the herds of barrenground caribou known as the Porcupine, Bluenose and Bathurst Caribou Herds will be incorporated as an appendix to this Agreement.
- 13.6.3**    In respect of migratory species which cross international boundaries, Canada shall endeavor to include the countries concerned in cooperative conservation and management agreements and arrangements. Canada shall endeavor to have provisions in such agreements respecting joint research objectives and related matters respecting the control of access to populations.
- 13.6.4**    Government shall provide the Dene/Metis with the opportunity to be represented in any Canadian management regimes in respect of migratory species which are established pursuant to international or domestic agreements and which affect migratory species in the settlement area.

**13.7**      NATIONAL PARKS (OTHER THAN WOOD BUFFALO NATIONAL PARK)

- 13.7.1**    Dene/Metis harvesting rights and the wildlife management provisions of this agreement shall apply in new national parks established within the settlement area, including the Nahanni National Park Reserve, in accordance with the National Parks chapter of this agreement.

13.8 WOOD BUFFALO NATIONAL PARK

- 13.8.1 The harvesting rights of the Dene/Metis within the areas of Wood Buffalo National Park used by the Dene/Metis for harvesting are set out in the Wood Buffalo National Park chapter.

13.9 COMMERCIAL OPPORTUNITIES RELATED TO WILDLIFE

Commercial Harvesting

- 13.9.1 (a) The Board shall determine whether commercial harvesting is to be permitted. The Board may prescribe terms and conditions for such harvesting. The terms and conditions may include general licence terms in respect of Dene/Metis employment, training and business opportunities, non-interference with Dene/Metis harvesting and like matters.
- (b) Where there has not been actual commercial harvesting for a species, population, or area at any time during the previous 3 years, the Board shall require the consent of the affected Dene/Metis local council before permitting such commercial harvesting.
- (c) On application by an interested party, or on its own motion, the Board may review the decision of a Dene/Metis local council under (b) not to consent to such commercial harvesting and may permit such harvesting if the Board determines that it is reasonable, in all the circumstances, to do so.
- 13.9.2 A designated Dene/Metis organization shall have the right of first refusal to any new licence for the commercial harvesting of wildlife, and to take up any commercial harvesting licence in force at the date of settlement legislation that is not renewed or reissued to the person who held the licence at the date of settlement

legislation. This section does not apply to commercial fishing licences.

#### Commercial Harvesting of Fish

##### 13.9.3 In the case of commercial harvesting of fish:

- (a) Government shall offer to the Dene/Metis for every licensing period after the date of settlement legislation and for each fishery a number of licences equal to the larger of:
  - (i) the number of licences held by Dene/Metis participants at the date of settlement legislation who met any minimum production requirements, and if none, who actually fished pursuant to a licence during the fishing season immediately preceding the date of settlement legislation, and
  - (ii) the number of licences held by Dene/Metis participants at the date of settlement legislation who met any minimum production requirements, and if none, who actually fished pursuant to a licence during the fishing season two seasons immediately preceding the date of settlement legislation.
- b) Government shall first offer the licences described in (a) to Dene/Metis participants who, in the fishery for which the licence is offered met any minimum production requirements, and if none, who actually fished pursuant to a licence, in both or either of the two immediately preceding fishing seasons; and second, to the designated Dene/Metis organization.
- (c) Subject to (d) a designated Dene/Metis organization shall have the right of first refusal, for each



fishery to one half of any licences which are new, not renewed or not re-issued to the previous holder.

- (d) The right provided in (c) shall not apply for any fishing season for any fishery in respect of which Dene/Metis participants and the designated Dene/Metis organization together, have been offered or issued at least fifty percent of the licences for that fishing season for that fishery.
- (e) After the Dene/Metis have been offered or have taken up licences pursuant to (a) or (c) above, Dene/Metis participants shall be treated on the same basis as other licence applicants in respect of a particular fishery.
- (f) For the purpose of this section, an immediate family member of a person holding a licence at the date of settlement legislation for a fishery of Great Slave Lake, with the consent of the licence holder, may stand in the place of the licence holder and the licence issued shall be deemed to have been re-issued to the previous holder.
- (g) For the purpose of this section:
  - (i) A licence issued in respect of a season shall be deemed to be valid at the date of settlement legislation if the licence was valid for the season immediately preceding the date of settlement legislation and
  - (ii) fishery means the commercial harvesting of a specific fish species in a specific location as prescribed by legislation.

Commercial Guiding, Outfitting and Hunting, Fishing and Naturalist Activities

13.9.4 Subsection 13.9.1 applies to commercial guiding and

outfitting, sport hunting, sport fishing and naturalist activities, with such modifications as the circumstances require.

13.9.5 A designated Dene/Metis organization shall have the right of first refusal to a new licence for the operation of commercial guiding, outfitting, sport hunting, sport fishing and naturalist activities in the settlement area, provided that the Board provides that a portion of such licences for guiding and outfitting for barrenground caribou be reserved for resident non-participants.

13.9.6 In the event that the holder of a licence in respect of any of the said activities in force at the date of the settlement legislation intends to relinquish the licence and/or sell or transfer the enterprise, or any part thereof, a designated Dene/Metis organization will have the right of first refusal to take up such licence and/or the first opportunity to purchase the said enterprise or the part thereof at fair market value, provided that the following will not be considered as sales or transfers under this section:

(a) sales or transfers to persons holding rights or options to purchase as at the date of the Final Agreement;

(b) sales or transfers to persons who are members of the holder's immediate family, and who are themselves eligible to hold a licence.

#### Commercial Propagation, Cultivation and Husbandry Activities

13.9.7 (a) Where in the opinion of the Board, a proposed commercial activity for the propagation, cultivation or husbandry of a species of wildlife indigenous to the settlement area could adversely affect harvesting by the Dene/Metis by reason of the area in which it

is proposed to be carried on, or otherwise, the Board shall require the consent of the affected Dene/Metis local council.

(b) Paragraph 13.9.1(c) applies to a decision of a Dene/Metis local council under 13.9.7(a), with such modifications as the circumstances require.

(c) The Board shall advise the appropriate licensing authority of its decision pursuant to this section.

13.9.8 A designated Dene/Metis organization shall have a right of first refusal to any new licence in respect of commercial activities described in 13.9.7(a) and to any such licence which is not re-issued to the previous holder.

#### Other Commercial Activities

13.9.9 A designated Dene/Metis organization shall have the exclusive right to be licenced to commercially harvest bison and muskox and the exclusive right to be licenced to provide guiding services and harvesting opportunities to non-residents with respect to these species.

13.9.10 For greater certainty, the Dene/Metis will have the exclusive right to be licenced to conduct commercial wildlife activities on Dene/Metis lands, and to permit others to do so.

13.9.11 To the extent that commercial wildlife activities are permitted in conservation areas within the settlement area, a designated Dene/Metis organization shall have the right of first refusal to any new licence for such activities and to take up any licence for such activities in force at the date of settlement legislation which is not renewed.

13.9.12 In the event that manipulation of wildlife populations is required in a conservation area within the settlement

area, designated Dene/Metis organizations shall be given the first opportunity to conduct the hunt in accordance with a plan to be approved by appropriate officials, and to dispose of wildlife parts and products resulting therefrom.

#### General Conditions

- 13.9.13 Government shall, upon request and at reasonable rent, permit the use of or lease such lands to the Dene/Metis as in the opinion of Government are reasonably necessary to carry out the licensed activities described in this chapter.
- 13.9.14 The commercial wildlife activities referred to in this part shall be conducted in accordance with legislation affecting such activities. A licence fee may be required to engage in such activities.
- 13.9.15 Procedures for the exercise of Dene/Metis rights provided by this chapter, including arbitration in respect of 13.9.6, will be set out in the Final Agreement.

#### 13.10 WILDLIFE MANAGEMENT BOARD

- 13.10.1 (a) A Wildlife Management Board shall be established to be the main instrument of wildlife management in the settlement area and shall act in the public interest.
- (b) The Board shall be established at the time of settlement legislation.
- 13.10.2 Wildlife shall be managed in the settlement area in accordance with this agreement including its objectives.

#### Establishment and Structures

- 13.10.3 The Board shall consist of 11 members appointed as follows:



(a) 10 members to be appointed jointly by the Governor in Council and the Executive Council of the Government of the Northwest Territories, 5 each to be appointed from nominees put forward by the Dene/Metis and Government; and

(b) a Chairman, resident in the Northwest Territories, to be nominated by the members of the Board appointed under 13.10.3(a) and appointed jointly by the Governor in Council and the Executive Council of the Government of the Northwest Territories.

13.10.4 Board members shall not be considered to have a conflict of interest by reason only of being public servants or employees of Dene/Metis organizations.

13.10.5 In the event that the Board does not recommend a Chairman within two months after the other members of the Board are appointed, the Minister of Indian Affairs and Northern Development jointly with the Government of the Northwest Territories' Minister of Renewable Resources shall, after consultation with the Board, recommend a Chairman to the Governor in Council and the Executive Council of the Northwest Territories.

13.10.6 Should any party fail to nominate members to the Board within two months of its constitution, the Governor in Council and the Executive Council of the Government of the Northwest Territories may jointly appoint any persons to complete the Board.

13.10.7 Should a member resign or otherwise leave the Board, the nominating body shall nominate a replacement within six weeks.

13.10.8 A vacancy in the membership of the Board does not impair the right of the remainder to act.

13.10.9 Each member shall be appointed to hold office for a specific term not to exceed five years. A member may be reappointed.

13.10.10

A member may be removed from office at any time for cause by Governor in Council and the Executive Council of the Government of the Northwest Territories after consultation with the party who nominated the member.

\*13.10.11

The Board may permit other native groups who have acquired harvesting rights in the settlement area to have representatives present when issues affecting their rights are being considered.

\*13.10.12

When representatives from other native groups are present, as stipulated in 13.10.11, the Minister may also designate representatives on the same basis.

\*To be revised after completion of overlap agreements.

#### Administration and Procedure

13.10.13

The Board may make by-laws:

- (a) respecting the calling of meetings of the Board, and
- (b) respecting the conduct of business at meetings of the Board, including in-camera meetings, and the establishment of special and standing committees of the Board, the delegation of duties to such committees and the fixing of quorums for meetings thereof.

13.10.14

A majority of the members from time to time in office constitutes a quorum of the Board.

13.10.15

The Board shall have offices in Yellowknife but may meet at any location.

13.10.16

The Board shall have an Executive Director and such staff as is necessary for the proper conduct of its affairs.

13.10.17

The Board shall be accountable to Government for its expenditures.

13.10.18

It is intended that there be no duplication in the functions required for the public management of wildlife.

13.10.19

The Board shall prepare an annual budget, subject to review and approval by Government. The approved expenses of the Board shall be a charge on Government. Such budget shall be in accordance with Treasury Board guidelines and may include:

- (a) remuneration and travel expenses for attendance of Board members at board and committee meetings;
- (b) the expenses of public hearings and meetings;
- (c) a budget for research, public education and other programs as may be approved by Government from time to time;
- (d) the expenses of staff and of the operation and maintenance of the office;

13.10.20

The annual budget of the Board in its first year of operation shall be set out in an implementation plan.

13.10.21

The Board may make rules respecting the procedure for making applications, representations and complaints to it, including the conduct of hearings before it, and generally respecting the conduct of any business before it.

13.10.22

The Board shall have the powers of a commissioner under Part I of the Inquiries Act, R.S.C. 1970, c.I-13. The Board may not, however, subpoena Ministers.

13.10.23

The Board shall consult freely with Government, communities, the public and with Dene/Metis local and regional councils and may do so by means of informal meetings or public hearings.

13.10.24

A public hearing may be held by the Board where the Board is satisfied that such a hearing is desirable and shall be held when the Board intends to consider establishing a total allowable harvest and a Dene/Metis needs level in respect of a species of wildlife which has not been subject to a total allowable harvest level within the previous two years.

13.10.25

A public hearing may be held at such place or places within the settlement area as the Board may designate.

Powers and Duties of the Board

13.10.26

In furtherance of its purpose as the main instrument of wildlife management in the settlement area, the Board may:



- (a) establish policies and propose regulations in respect of;
  - (i) the harvesting of wildlife by any person, including any class of persons;
  - (ii) the commercial harvesting of wildlife;
  - (iii) commercial activities relating to wildlife including:
    - (A) commercial establishments and facilities for commercial harvesting; propagation, cultivation and husbandry of furbearers and other species; commercial processing, marketing and sale of wildlife and wildlife products, which may include trade, barter and sale to persons not included in 13.4.17;
    - (B) guiding and outfitting services;
    - (C) hunting, fishing and naturalist camps and lodges;
- (b) exercise the powers and duties given to it elsewhere in the agreement;
- (c) approve plans for the management and protection of particular wildlife populations, including transplanted wildlife populations, endangered species, and particular wildlife habitats including conservation areas, Territorial Parks, and national parks in the settlement area, except Wood Buffalo National Park;
- (d) approve the designation of conservation areas and endangered species;
- (e) approve provisions of interim management guidelines, park management plans and policies that impact on

wildlife and Dene/Metis harvesting in a national park except Wood Buffalo National Park;

- (f) approve regulations which may be proposed by Government pursuant to 13.10.32, except for those in respect of which the Board has already made a final decision under 13.10.30;
- (g) establish rules and procedures for the carrying out of any consultation required by these provisions; and
- (h) review any matter in respect of wildlife management referred to it by Government.

#### 13.10.27

- (a) Unless the Minister directs otherwise, the Board shall forward all its decisions, except those made pursuant to 13.4.8, to the Minister, accompanied by draft regulations, where the Board proposes regulations.
- (b) Unless the Minister directs otherwise, all decisions of the Board, except those made pursuant to 13.4.8 shall be confidential until the process in 13.10.28 has been completed, or the time provided for the process has expired.

#### 13.10.28

The Minister may, within 60 days of the receipt of a decision under 13.10.27, accept, vary, or set aside and replace the decision. The Minister may consider information not before the Board, and matters of the public interest not considered by the Board. Any proposed variation or replacement shall be sent back to the Board by the Minister with written reasons.

#### 13.10.29

The Minister may extend the time provided in 13.10.28 by 30 days.

13.10.30

(a) The Board shall, within 30 days of the receipt of a variation or replacement from the Minister pursuant to 13.10.28, make a final decision and forward it to the Minister with written reasons;

(b) The Minister may extend the time provided under (a).

13.10.31

The Minister may, within 30 days of receipt of a final decision of the Board accept or vary it, or set it aside and replace it, with written reasons. The Minister may consider information not before the Board, and matters of the public interest not considered by the Board.

13.10.32

Government shall, as soon as practicable, implement:

(a) all decisions of the Board which are accepted by the Minister under 13.10.28.

(b) all decisions of the Minister under 13.10.31; and

(c) subject to (a) and (b), all decisions of the Board after the expiry of the time provided in 13.10.28 and 13.10.31.

13.10.33

Decisions of the Board shall not be subject to judicial review except pursuant to the Federal Court Act, provided that such proceedings may be taken before a Judge of the Supreme Court of the Northwest Territories in the case of proceeding which could be taken before the Federal Court Trial Division.

13.10.34

Government may make changes of a technical nature only, not going to substance, to any decision or final decision of the Board, without varying or setting aside and

replacing the decision or final decision, provided the Board is advised of any such change.

#### Licensing and Enforcement

##### 13.10.35

The Board shall not issue licences or hear and decide applications for individual commercial undertakings, or enforce legislation or regulations.

#### Advisory Powers

##### 13.10.36

Government may consult the Board on any matter which will likely impact on wildlife or wildlife habitat in the settlement area and shall seek the timely advice of the Board on the following matters:

- (a) draft legislation respecting wildlife or wildlife habitat;
- (b) land use policies or draft legislation which will likely impact on wildlife or wildlife habitat;
- (c) proposed inter-provincial or international agreements which will likely impact on wildlife, wildlife harvesting or wildlife habitat;
- (d) the establishment of new national parks and Territorial Parks;
- (e) wildlife and habitat management plans and regulations relating to Dene/Metis harvesting in Wood Buffalo National Park, if provided for in the Wood Buffalo National Park agreement;
- (f) plans for public education on wildlife, wildlife harvesting and wildlife habitat;



- (g) policies respecting wildlife research and the evaluation of wildlife research in the settlement area;
- (h) plans for cooperative management and research relating to species and populations not wholly within the settlement area, such as the Porcupine Caribou Herd; and
- (i) plans for training Dene/Metis in management of wildlife and related economic opportunities.

#### Exercise of Powers and Responsibilities

##### 13.10.37

The Board shall provide any advice to Government under 13.10.36 within such reasonable time as Government requires, failing which, Government may proceed without any such advice.

##### 13.10.38

The Minister may request the Board to exercise a power or duty described in 13.10.26 and the Board shall comply with the request within such reasonable time as the Minister requires.

##### 13.10.39

If urgent circumstances require an immediate decision respecting matters referred to in 13.10.26 or 13.10.36, the Minister or his designated agent may make an interim decision and take such action as required to implement the interim decision without receiving a decision or advice from the Board. The Minister shall advise the Board of the interim decision made or action taken and the reasons therefore and direct the Board to review the decision made or action taken and render its decision or advice in accordance with this agreement.

13.10.40

The Board may:

- (a) advise the Minister or Government of any matter relating to wildlife or wildlife habitat at any time whether or not the Minister or Government has requested such advice;
- (b) request the Parties to this agreement to review any of its provisions.

Transitional

13.10.41

Notwithstanding 13.5.2 and until the Board exercises its powers or carries out its duties under 13.10.26, legislation and Government policies in effect from time to time shall continue to apply.

Research and Harvesting Studies

13.10.42

It is intended that the Board and Government departments and agencies work in close collaboration, and exchange full information on their policies, programs and research.

13.10.43

The Board may participate in harvesting studies, data collection and in the evaluation of wildlife research. It is intended that the Board have an independent research capability, to the extent agreed by Government and which does not duplicate research which is otherwise available to it.

13.10.44

The Board shall establish and maintain a public file for reports, research papers and data received by the Board. Any material furnished on a confidential basis shall not be made public without the consent of the originator.

13.10.45

Wildlife research or harvesting studies conducted in the settlement area by Government, or by the Board, or with Government assistance shall directly involve Dene/Metis local and regional councils and Dene/Metis harvesters to the greatest extent possible.

13.11 DENE/METIS WILDLIFE MANAGEMENT COUNCILS

Dene/Metis Local Wildlife Management Councils

13.11.1 There shall be a Dene/Metis local wildlife management council in each Dene/Metis community in the settlement area,\* to encourage and promote local involvement in conservation, harvesting studies, research, and wildlife management in the local community.

\*Final Agreement will list communities in settlement area.

13.11.2 A Dene/Metis local wildlife management council shall be composed of not more than seven persons who are residents of the local community.

13.11.3 A Dene/Metis local wildlife management council shall be established by the designated Dene/Metis organization in the community.

13.11.4 A Dene/Metis local wildlife management council shall have the following powers:

- (a) to allocate any Dene/Metis needs level for that community among local participants;
- (b) to manage in a manner consistent with legislation and the policies of the Board, the local exercise of Dene/Metis harvesting rights including the methods, seasons and location of harvest;

- (c) to establish group trapping areas as defined in legislation subject to the approval of the Board;
- (d) to exercise powers given to Dene/Metis Local Wildlife Management Councils under this agreement;
- (e) to advise the Board with respect to Dene/Metis harvesting and other matters of local concern within the jurisdiction of the Board;

13.11.5 Dene/Metis local wildlife management councils shall be consulted regularly by the Board with respect to matters within its jurisdiction. Such councils may be delegated authority by Government and by the Board jointly, upon terms and conditions established by Government and by the Board.

13.11.6 Dene/Metis local wildlife management councils shall participate in the collection and provision to Government and the Board, of local harvesting data and other locally available data respecting wildlife and wildlife habitat.

Dene/Metis Regional Wildlife Management Councils

13.11.7 With the approval of the Board, Dene/Metis local wildlife management councils in a region may form a regional Dene/Metis wildlife management council.

13.11.8 Each Dene/Metis local wildlife management council in the region shall be entitled to appoint one member of the regional council.

13.11.9 Dene/Metis regional wildlife management councils, after consultation with the appropriate Dene/Metis local councils, may manage the regional exercise of Dene/Metis harvesting rights, including but not limited to the allocation of the applicable Dene/Metis needs level between Dene/Metis communities in the region in accordance with the provisions of this agreement.



13.11.10

Dene/Metis regional wildlife management councils may advise the Board with respect to matters within their jurisdiction. Such councils may be delegated authority by Government and by the Board jointly, to be exercised on a regional basis, upon terms and conditions established by Government and by the Board.

13.12 OTHER PROVISIONS

13.12.1 After the date of the signing of this agreement, in respect of migratory species which cross inter-provincial or inter-territorial boundaries, Government shall consult with the Dene/Metis with respect to Dene/Metis harvesting rights including but not limited to the allocation of the applicable Dene/Metis needs level between Dene/Metis communities in the region in accordance with the provisions of this chapter.

13.12.2 After the date of the signing of this agreement Government shall consult with the Dene/Metis with respect to the formulation of Government positions in relation to international agreements which may affect wildlife or wildlife habitat in the settlement area, including negotiations with respect to methods of harvesting and amendments to the Migratory Birds Convention, prior to adopting positions.

13.12.3 Participants may exercise their rights under General Hunting Licences until such time as the settlement legislation comes into force.

13.12.4 Persons who held General Hunting Licenses in the settlement area as at the date of settlement legislation may continue to harvest in accordance with legislation pertaining to such licences after the date of settlement legislation.

**13.13**     INTERIM PROVISIONS

- 13.13.1** Between the date of the signing of this agreement and the date of settlement legislation, the Government of Canada and the Government of the Northwest Territories agree that they will not enter into or amend agreements with each other or with other provinces or territories with respect to wildlife, wildlife habitat, or wildlife harvesting which would result in a conflict with the provisions of this chapter, without consulting the Dene/Metis and shall endeavor to respect the views, positions and recommendations of the Dene/Metis.
- 13.13.2** Between the date of the signing of this agreement and the date of settlement legislation, Government shall consult with the Dene/Metis when proposing any change to policies and legislation with respect to wildlife, wildlife habitat and wildlife harvesting in the settlement area, and shall endeavor to respect the views, positions and recommendations of the Dene/Metis.
- 13.13.3** Between the date of the signing of this agreement and settlement legislation, Government will use its best efforts to respect the rights described in this Agreement. During such period, Government will give the Dene/Metis notice of all proposed land grants in fee simple, agreements for sale, surface leases and the establishment of protected areas. If bag limits or other limitations on the quantity of wildlife that may be harvested are in force when this agreement is signed, such limitations will not be altered without consultation with the Dene Nation and Metis Association of the Northwest Territories until the Board is established.

14        FORESTRY

14.1.1    In this chapter,

"Board" means the Wildlife Management Board.

14.1.2    Subject to the provisions of this chapter, the Dene/Metis have the right to harvest trees, including dead trees, throughout the settlement area at all seasons of the year for the following purposes:

- (a) firewood for personal use;
- (b) the construction of camps for hunting, trapping and fishing for personal use;
- (c) handicrafts and cultural and medicinal uses;
- (d) the construction of boats and rafts for personal uses;
- e) house building for personal use.

14.1.3    The Dene/Metis right to harvest trees is subject to legislation enacted for reasons of forest management, land management, wildlife conservation, public health, public safety and protection of the environment from significant damage.

14.1.4    The Dene/Metis right to harvest trees set out in these provisions does not apply:

- (a) on lands held in fee simple, subject to an agreement for sale or surface lease;
- (b) upon Crown lands where it conflicts with the carrying out of any activity authorized or permitted by Government such as a timber licence or land use permit,

(c) in national parks except as permitted by the provisions of the Agreement on National Parks;

(d) on lands described in 13.4.13(a).

14.1.5 The Dene/Metis may dispose of harvested trees by way of gift, trade, barter or sale to other Dene/Metis for the purposes described in 14.1.2.

14.1.6 The commercial harvesting of trees throughout the settlement area is subject to legislation.

14.1.7 (a) No new licence for the commercial harvesting of trees shall be granted where such commercial harvesting would significantly affect the harvesting of wildlife by the Dene/Metis without the consent of the affected Dene/Metis local council.

(b) On application by an interested party, or on its own motion, the Board may review the decision of a Dene/Metis local council under (a) not to consent to such commercial harvesting and may permit such harvesting if the Board determines that it is reasonable, in all circumstances to do so.

14.1.8 Nothing in this Agreement shall be construed to:

(a) confer rights of ownership of trees except on Dene/Metis lands;

(b) guarantee the supply of trees;

(c) preclude non-participants from harvesting trees on lands other than Dene/Metis lands or;

(d) entitle the Dene/Metis to any compensation for damage to or loss of trees or harvesting opportunities on lands other than Dene/Metis lands.

14.1.9 The Board may:



- (a) establish policies and propose regulations in respect of:
  - (i) the harvesting of trees by any person, including any class of persons;
  - (ii) the commercial harvesting of trees;
- (b) approve forest conservation and forest management plans and policies within the settlement area which may include:
  - (i) determination of areas of commercial harvesting of trees and the terms and conditions of such harvesting which may include cutting rates, yields, reforestation measures and Dene/Metis employment and training;
  - (ii) provisions for forest management agreements with licensees and owners;
  - (iii) provision for establishment of fire attack zones;

14.1.10 Government may consult the Board on any matter which affects forestry and forest management and shall seek the timely advice of the Board on the following matters:

- (a) draft legislation respecting forestry and forest management including forest firefighting and control;
- (b) land use policies or draft legislation which will likely impact on forestry or forest management;
- (c) policies respecting forestry and forest management research and the evaluation of such research;
- (d) plans for training Dene/Metis in forestry, forest management and lumbering.

**15**        **PLANTS**

**15.1.1**    In this chapter,

"Board" means the Wildlife Management Board.

**15.1.2**    The Dene/Metis may gather plant material for food, medicine, cultural and other personal purposes and for purposes required in the exercise of wildlife harvesting rights within the settlement area, subject to legislation enacted for reasons of conservation, land management, public health, public safety and protection of the environment from significant damage.

**15.1.3**    The Dene/Metis right to gather plants set out in this chapter does not apply:

- (a) on lands held in fee simple, subject to an agreement for sale or surface lease;
- (b) upon Crown lands where it conflicts with the carrying out of any activity authorized or permitted by government such as a timber licence or land use permit;
- (c) in national parks except as permitted by the provisions of this agreement on National Parks;
- (d) on lands described in **13.4.13(a)**.

**15.1.4**    Government shall consult with the Dene/Metis with respect to their gathering of plants before enacting legislation which would regulate or prohibit gathering of plants.

**15.1.5**    Any legislation which regulates but does not prohibit the gathering of plants shall provide a preferential right of gathering by the Dene/Metis for food, medicine, cultural and other personal uses and for purposes required in the exercise of wildlife harvesting rights and may describe

on which lands and under what conditions the preferential right will apply.

- 15.1.6 (a) The Dene/Metis may give, trade, barter or sell plant material gathered by them to:
- (i) other Dene/Metis;
  - (ii) beneficiaries of land claim agreements adjacent to the settlement area for their personal consumption when provided for in overlap agreements; and
  - (iii) other aboriginal persons who reside in or adjacent to the settlement area and who gather plants in the settlement area for their personal consumption.
- (b) Nothing in this section is intended to confer any rights on any persons other than the Dene/Metis.
- (c) The Dene/Metis right provided in (a) is intended to maintain traditional sharing among individuals and communities and is not to be exercised for profit. The Board may regulate such trade, barter or sale but only to ensure it is not for profit. The Minister may review any such regulation only for the purposes of conservation, public health, public safety and the protection of the environment from significant damage.
- 15.1.7 Nothing in this agreement shall be construed to:
- (a) confer rights of ownership to plants except on Dene/Metis lands;
  - (b) guarantee the supply of any plants;
  - (c) preclude non-participants from gathering plants on lands other than Dene/Metis lands;

(d) entitle the Dene/Metis to any compensation for damage to or loss of plants or gathering opportunities on other than Dene/Metis lands.



16        ESTABLISHMENT AND OPERATION OF NATIONAL PARKS WITHIN THE  
DENE/METIS LAND CLAIMS SETTLEMENT AREA

16.1      DEFINITION

16.1.1    In this chapter,

"Minister" means the Minister responsible for National Parks.

16.2      GENERAL

16.2.1    The purpose of national parks established in the settlement area is to preserve and protect for future generations representative natural areas of national significance, including the wildlife resources of such areas, and to encourage public understanding, appreciation and enjoyment of such areas, while providing for the rights of the Dene/Metis under this agreement to use such areas for the harvesting of wildlife and plants.

16.2.2    Dene/Metis wildlife harvesting rights and wildlife management provisions of this agreement will apply in national parks in the settlement area, as modified by the provisions of this chapter.

16.2.3    The traditional and current use of lands within a national park by the Dene/Metis shall be recognized in policies and public information programs and materials.

16.2.4    Park management plans and guidelines for national parks shall respect:

(a) Dene/Metis burial sites and places of religious and ceremonial significance;

(b) historic and archaeological sites.

- 16.2.5 Exploration and development of non-renewable resources will not be permitted within a national park, except as may be required for construction purposes within the park.
- 16.2.6 Except as provided otherwise in this agreement, all national parks in the settlement area shall be planned, established and managed pursuant to the National Parks Act and other legislation, the National Parks Policy and park management plans in effect from time to time.
- 16.2.7 Once established, the boundaries of a national park will not be reduced without the consent of the Dene/Metis. The boundaries of a national park shall not be enlarged except by Order in Council, proclamation, or legislation after consultation with the Dene/Metis.
- 16.3 ESTABLISHMENT OF NAHANNI NATIONAL PARK
- 16.3.1 At the time of settlement legislation, Nahanni National Park shall be established as a national park along the South Nahanni River as described in Part II of Schedule V of the National Parks Act, whether or not a Dene/Metis Impact and Benefit Plan has been approved.
- 16.4 IMPACT AND BENEFIT PLANS
- 16.4.1 The Final Agreement will provide for the establishment of a Park Management Committee for Nahanni National Park in accordance with the provisions of this Agreement. A Dene/Metis Impact and Benefit Plan will be recommended to the Minister by the Park Management Committee within one year of formation of the Committee.
- 16.4.2 Prior to establishment of other national parks in the settlement area, a Dene/Metis Impact and Benefit Plan for each proposed park shall be jointly prepared by

Government and a designated Dene/Metis organization for the approval of the Minister prior to the establishment of the park.

16.4.3 Impact and Benefit Plans will address the impact of the establishment and development of the park on the affected Dene/Metis community or communities in accordance with the provision of this Agreement and will describe the steps that will be taken by Government in the establishment of the park. In particular the plan may include provisions relating to:

- (a) establishment of the Park Management Committee;
- (b) the continued use of Dene/Metis camps and cabins to assist resource harvesting in the park;
- (c) economic and employment opportunities for the Dene/Metis and measures which will be adopted to assist Dene/Metis to take advantage of such opportunities, in accordance with the preference provided for in 16.9;
- (d) mitigation of potential negative impacts of park establishment on the affected Dene/Metis community or communities.
- (e) other matters of concern to Government or the affected Dene/Metis community or communities.

16.4.4 If the designated Dene/Metis organization and Government fail to reach agreement on a Plan within the specified time for Nahanni National Park, or a reasonable period of time for other proposed parks, each party may submit its own Plan to the Minister for his consideration and decision.

**16.5**      NATIONAL PARKS MANAGEMENT COMMITTEE

**16.5.1**    A National Park Management Committee (the Committee) shall be established for each national park in the settlement area.

**16.5.2**    (a) The Committee shall consist of equal numbers of members to be appointed by the appropriate Dene/Metis local wildlife management council or councils and by the Minister of Government (the Minister) in consultation with the Government of the Northwest Territories.

(b) Each member shall exercise one vote.

(c) The local park manager shall sit as an ex-officio, non-voting member.

(d) The Committee shall choose from its members a chairperson who shall serve a fixed term and shall vote only in the event of a tie. The party who has appointed the chairperson will name a replacement on the Committee. If the Committee fails to agree on a chairperson within a reasonable period of time, the Minister shall select the chairperson from the Board.

(e) All appointments shall be for a fixed term. A member may be removed from office for cause by the authority responsible for his or her appointment.

(f) The Committee shall meet as often as necessary, but will hold at least two meetings annually.

(g) The Committee shall adopt operating procedures respecting the conduct of its business.

**16.5.3**    The Committee may advise the Minister or his designate, the Wildlife Management Board or agencies of Government as appropriate, with respect to the following matters:



- (a) all matters affecting the national park which lie within the Wildlife Management Board's powers and responsibilities;
- (b) interim management guidelines, park management plans and any amendments to them;
- (c) park employment, training plans and economic opportunities for participants associated with the development and operation of the park;
- (d) any proposed changes to park boundaries;
- (e) issuance of permits for cabins or camps required for the exercise of Dene/Metis harvesting rights;
- (f) measures to give protection to sites within the park of cultural and spiritual significant to the Dene/Metis and of archaeological significance;
- (g) information and interpretive programs to recognize Dene/Metis traditional use of the park area;
- (h) research and field work conducted by Government in a national park;
- (i) any other matters which may be referred to the Committee by the Minister, the Wildlife Management Board or agencies of Government.

16.5.4 The Minister shall advise the committee in writing of reasons for rejection of any advice provided and afford the Committee an opportunity for further consideration of the matter.

#### 16.6 PARK PLANNING AND MANAGEMENT

16.6.1 Interim management guidelines for a national park shall be prepared by Environment Canada - Parks, in

consultation with the Park Management Committee, within two years of establishment of a national park.

- 16.6.2 A park management plan shall be prepared by Environment Canada - Parks, in consultation with the Management Committee within five years of establishment of a national park, and shall be reviewed and revised as required from time to time and not less than every ten years.
- 16.6.3 Park management plans shall be approved by the Minister prior to coming into force.
- 16.6.4 To the extent feasible, interim management guidelines and park management plans shall be prepared in the settlement area.
- 16.6.5 Park management plans shall describe the policies which guide the conservation and management of the park and its resources.
- 16.6.6 The management plan for Nahanni National Park Reserve shall be reviewed in accordance with the agreement within two years of the establishment of the park, or such future time as may be agreed by Environment Canada - Parks and a designated Dene/Metis organization.

#### 16.7 WILDLIFE

- 16.7.1 National parks will be managed in a manner which provides for wildlife harvesting by the Dene/Metis, consistent with the protection of wildlife habitat, the maintenance of viable wildlife populations, and the natural evolution of ecosystems and their associated plant and animal species, as well as public use and enjoyment of the national parks.
- 16.7.2 Wildlife management within national parks will be compatible with wildlife management in surrounding areas

to the extent possible, consistent with national parks objectives and policies.

- 16.7.3 Except for the harvesting of furbearers, the harvesting of wildlife within the national parks by the Dene/Metis shall be limited to the personal use of participants or for trade, barter or sale to other participants for their personal use or to other aboriginal persons referred to in 13.4.17(a)(ii) and (iii) for their personal use.
- 16.7.4 Permits shall be required for the location of cabins and camps required for the exercise of Dene/Metis harvesting rights; such cabins and camps shall conform to interim management guidelines and park management plans. Permits will be issued by the local park manager without charge.
- 16.7.5 Sport fishing may be permitted, subject to the wildlife management provisions of this agreement. Sport hunting will not be permitted in any national park.
- 16.7.6 Any allocation of Dene/Metis harvesting rights among individual harvesters shall, if required, be the responsibility of the appropriate Dene/Metis local wildlife council.
- 16.7.7 Non-participants who held General Hunting Licences at the date of settlement legislation and who lawfully harvested wildlife in the area comprised by the park at the time of the establishment of the park and their children and non-participants who otherwise lawfully harvested wildlife for subsistence purposes in the area comprised by the park at the time of the establishment of the park and their children may continue to harvest wildlife after the establishment of the park, if permitted by and in accordance with the National Parks Act.

**16.8**      PLANTS

**16.8.1**    The Dene/Metis may gather plant material for food, medicine, cultural and other personal purposes and for purposes required in the exercise of wildlife harvesting rights within the park subject to park management plans and to legislation enacted for reasons of conservation, public health, public safety and protection of the environment from significant damage. This right includes the cutting of trees for construction and maintenance of cabins and camps and for fuel.

**16.9**      Economic and Employment Provisions

**16.9.1**    The parties intend that qualified Dene/Metis participants will hold a majority of jobs in national parks in the settlement area. To this end, training opportunities will be provided to assist Dene/Metis to qualify for such employment. The nature and extent of training opportunities will be set out in the Final Agreement.

**16.9.2**    To the extent that commercial and economic activities related to wildlife and tourism may be permitted in national parks, designated Dene/Metis organizations shall have the right of first refusal to any new licences to carry on such activities, and to take up licences in force at the date of settlement that are not renewed, as provided in this agreement.

**16.9.3**    In the event that manipulation of wildlife populations by way of a controlled hunt is required in a national park within the settlement area, the Dene/Metis shall be given the preferential right to conduct the hunt in co-ordination with park officials, and to dispose of wildlife parts and products resulting therefrom outside the park, in accordance with this agreement.



17        ESTABLISHMENT AND OPERATION OF PROTECTED AREAS

17.1.1    In this chapter,

"territorial park" means an area dedicated as a recreation park under 4(1)(a) and (b) of the Territorial Parks Act or successor legislation and any other territorial park outside local government boundaries the area of which exceeds one-half square mile.

17.1.2    Except as otherwise provided in this chapter, protected areas shall be planned and managed pursuant to legislation respecting protection of the resources in the protected areas.

17.1.3    Except as otherwise provided in this chapter, the provisions of the Final Agreement relating to Wildlife Harvesting and Management, Plants and Forestry apply in any protected area established in the settlement area.

17.1.4    Government shall consult with the Dene/Metis and with affected local communities prior to the establishment of any protected area, or changes in the boundaries of an established protected area. Such consultation shall commence not less than 12 months prior to the establishment of the protected area or the change in boundaries. In an emergency for reasons of conservation, such consultation may take place in a shorter period. In the event of an emergency for reasons of conservation which requires immediate government action, government shall consult with the Dene/Metis as soon as possible after the establishment of a protected area on the necessity of the action and the terms and conditions attached thereto.

17.1.5    The harvesting of wildlife, plants and trees by the Dene/Metis may be restricted in protected areas or parts of protected areas, for conservation or other reasons as

set out in the Wildlife Harvesting and Management Provisions or related to the management of the protected area. Any proposed restrictions will be included in a Dene/Metis Protected Area Agreement dealing with impacts and benefits (the "Agreement") to be negotiated between the affected Dene/Metis communities and Government. In the event that an Agreement is not negotiated within two years of the commencement of negotiations, each party may submit its own proposal to the Minister for consideration and decision.

17.1.6 The Agreement may include provisions relating to:

- (a) employment of the Dene/Metis;
- (b) training of Dene/Metis;
- (c) protection of Dene/Metis religious, cultural and historic sites;
- (d) mitigation of potential negative impacts of the establishment of the protected area on affected Dene/Metis harvesters and their communities;
- (e) participation of the Dene/Metis in management committees or other similar structures relating to the development and administration of the protected area;
- (f) any interim management guidelines or management plan;
- (g) other matters of concern to the affected Dene/Metis communities and Government.

17.1.7 Where a protected area is established after this agreement but prior to settlement legislation, Government and the Dene/Metis will negotiate an Agreement within two years of settlement legislation.

- 17.1.8 Any allocation of Dene/Metis harvesting rights among participants in protected areas shall be the responsibility of the appropriate Dene/Metis Wildlife Management Council.
- 17.1.9 The Government of the Northwest Territories shall consult with the affected Dene/Metis communities prior to the establishment of any territorial park which is not included in the definition of Territorial Park under this chapter.
- 17.1.10 The Government of the Northwest Territories may prepare a park management plan for Territorial Parks which describes the policies which will guide the conservation and management of the park and its resources. The Dene/Metis shall be invited to participate in the preparation of any plan. A park management plan shall be approved by the Minister before coming into force. Dene/Metis use will be in accordance with applicable interim management guidelines or park management plan.
- 17.1.11 It is the objective of the parties that qualified participants be employed at all occupational levels in protected areas. Government will identify jobs for the management and administration of protected areas and provide training opportunities for the Dene/Metis. The nature and extent of the training opportunities shall be set out in the Final Agreement.
- 17.1.12 To the extent that outfitting, guiding and naturalist commercial activities, including tourist establishments related to such activities and facilities for the manufacture or sale of handicrafts, may be permitted in protected areas, a designated Dene/Metis organization shall have the right of first refusal to any new licenses to carry on such activities and to take up licenses in force at the date of settlement legislation that are not renewed and are available.

18        WOOD BUFFALO NATIONAL PARK AGREEMENT

Whereas Dene/Metis beneficiaries have traditionally used and occupied land within Wood Buffalo National Park, herein referred to as the Park, and

Whereas Canada agrees to provide the Dene/Metis with certain rights and benefits within the Park.

18.1        DEFINITIONS

18.1.1      In this chapter,

"Beneficiary" means a participant who can trace his or her ancestry to a person or persons who used or occupied the Park.

"Minister" means the Minister responsible for National Parks.

18.2        LANDS

18.2.1      The Dene/Metis beneficiaries shall select lands in that area of the Park which is hereinafter called the Squirrel Sunrise Management Area. The Squirrel Sunrise Management Area shall, subject to minor boundary adjustments, be the Group Trapping Areas #1210, 1210A, 1211 and 1212 as described in a map to be attached to the Final Agreement.

18.2.2      Once established, the boundaries of the Squirrel Sunrise Management Area will not be altered without the consent of the Dene/Metis through a designated Dene/Metis organization.

18.2.3      The Dene/Metis, through a designated Dene/Metis organization, may be permitted to select or identify lands within the Squirrel Sunrise Management Area from each of the following three categories subject to the conditions and constraints applicable to each category.



18.2.4. Category 1 lands are park lands selected north of 60th parallel of latitude which will be immediately excised from the Park to become Dene/Metis Settlement Lands and are no longer subject to this chapter.

(a) The parties agree to be guided by land selection criteria proposed by government for Category 1 land selection. These criteria will be attached as a schedule to the Final Agreement.

18.2.5 Category 2 lands are park lands identified north of the 60th parallel of latitude which will remain National Park lands under the administration and control of Canada subject to these provisions.

(a) Category 2 lands will be managed as national park lands pursuant to the Wood Buffalo Park Management Plan, the National Parks Act, and applicable legislation in effect from time to time.

(b) Category 2 lands may be used by the public as park land unless the Dene/Metis and the Minister agree that such use should be restricted to ensure the protection of values of spiritual and/or cultural significance to the Dene/Metis.

(c) The parties agree that no trails, roads, buildings or other facilities will be constructed on identified Category 2 lands without the express consent of the Squirrel Sunrise Management Board and the Minister.

(d) In the event that Category 2 lands are excised from the Park and cease to be National Park lands, they will immediately become Dene/Metis Settlement Lands and will no longer be subject to these provisions unless the Dene/Metis select equivalent areas of Category 2 lands in the Squirrel Sunrise Management

Area, guided by the land selection criteria attached as a schedule to the Final Agreement.

- (e) The parties agree to be guided by land selection criteria proposed by government for Category 2 land selection. These criteria will be attached as a schedule to the Final Agreement.

**18.2.6** Category 3 lands are Park lands identified south of the 60th parallel of latitude which will remain National Park lands under the administration and control of Canada subject to these provisions.

- (a) Category 3 lands will be managed as national park lands pursuant to the Wood Buffalo Park Management Plan, the National Parks Act, and applicable legislation in effect from time to time.
- (b) Category 3 lands may be used by the public as park land unless the Dene/Metis and the Minister agree that such use should be restricted to ensure the protection of values of spiritual and/or cultural significance to the Dene/Metis.
- (c) the parties agree that no trails, roads, buildings or other facilities will be constructed on identified Category 3 lands without the express consent of the Squirrel Sunrise Management Board and the Minister.
- (d) In the event that Category 3 lands are excised from the Park and cease to be National Park lands, the Dene/Metis may select equivalent areas of such lands for Category 2 or Category 3 lands within the Squirrel Sunrise Management Area guided by the land selection criteria attached as a schedule to the Final Agreement.
- (e) The parties agree to be guided by land selection criteria proposed by government for Category 3 land

selection. These criteria will be attached as a schedule to the Final Agreement.

- 18.2.7 The total area of lands selected and identified by the Dene/Metis in all three categories of lands will not exceed 100 square miles with not more than 50 square miles being selected as Category 1 lands.
- 18.2.8 Canada agrees not to excise from the Park any portion of the Squirrel Sunrise Management Area south of the 60° parallel of North Latitude without the prior consent of a designated Dene/Metis organization.
- 18.2.9 The title to lands selected will be subject to existing easements and right of way.
- 18.2.10 The rights of third parties existing at the time of Settlement Legislation, such as non-participant trappers, guides and outfitters, will be respected and, if affected by land selection, will be dealt with equitably.

18.3 SQUIRREL SUNRISE MANAGEMENT BOARD

- 18.3.1 A management board (the Squirrel Sunrise Management Board) shall be established for the Squirrel Sunrise Management Area.
- 18.3.2 The Board shall consist of eight (8) members to be appointed as follows:
  - (a) Four members who shall be appointed by a designated Dene/Metis organization;
  - (b) Three members shall be appointed by the Minister; and
  - (c) The Park Superintendent shall sit on the Board as an ex-officio non-voting member.
- 18.3.3 Each member shall exercise one (1) vote.

- 18.3.4 The Board shall choose from among its members a Chairman who shall serve a two (2) year term and shall vote only in the event of a tie. The Chairman may be removed before the completion of his term by a two-thirds majority vote of the Board. The Chairman may serve more than one term.
- 18.3.5 Board appointments shall be for a term of three (3) years except for the initial appointments. Initially, two of the four members appointed by the Dene/Metis and two of the three members appointed by the Minister, shall be appointed for a term of four (4) years.
- 18.3.6 The Board shall meet as often as necessary, and during the first three (3) years after it is set up, it shall meet not fewer than four (4) times annually. Thereafter, it shall meet at least twice annually.
- 18.3.7 The Board shall adopt operating procedures respecting the conduct of its business.
- 18.3.8 Canada will provide the necessary support services including, but not restricted to, a staff person who shall act as coordinator of the Board's activities, to assist the Board in its activities.
- 18.3.9 Canada will provide necessary facilities for Board meetings and for the storage of the Board's records.
- 18.3.10 Canada will provide the Board with an annual budget to cover necessary travel, administrative and honoraria expenses necessary for the operation of the Board.
- 18.3.11 Board budgets will be recommended by the Board and formally amended from time to time as circumstances dictate.
- 18.3.12 As the principal mechanism for meaningful Dene/Metis involvement in the Park planning and management, the



Squirrel Sunrise Management Board may consider, advise and make recommendations to the Minister on:

- (a) All matters which affect natural resource management, including the determination of allowable harvests, seasons and locations of harvests in the Squirrel Sunrise Management Area;
- (b) The planning, screening and assessment of development proposals which may affect Dene/Metis use and harvesting within the Park;
- (c) Park Management Plans, Park policies and amendments thereto which affect the Dene/Metis use of the Park;
- (d) Park employment, training plans and economic opportunities for Dene/Metis beneficiaries associated with the development and operation of the Park, including hiring goals and objectives to be adopted with the Park from time to time;
- (e) Any proposed changes to Park boundaries;
- (f) Issuance of permits for cabins required for the exercise of Dene/Metis harvesting rights;
- (g) Measures to give protection to sites within the Park of cultural, spiritual, archaeological and historical significance to the Dene/Metis.
- (h) Information and interpretive programs to recognize Dene/Metis traditional use of the Park;
- (i) The policy and conditions under which research and associated fieldwork should be permitted within the Squirrel Sunrise Management Area;
- (j) Existing and proposed legislation and regulations which may effect the rights and interests of Dene/Metis beneficiaries within the Park;

(k) Other matters which may be referred to the Board by the Minister; and

(l) Any matters coming to the Board's attention which affect directly or indirectly Dene/Metis uses of the Park.

18.3.13 The Minister shall advise the Board in writing of his acceptance of its recommendations or, where he does not accept, of his reasons for not accepting any recommendations. The Minister shall afford the Board an opportunity for further consideration of any recommendation not accepted, and afford the Board an opportunity to submit new recommendations if it so chooses.

#### 18.4 WILDLIFE HARVESTING

18.4.1 Eligible Dene/Metis beneficiaries shall have the right, subject to the provisions of this chapter, to obtain permits to harvest wildlife within the Squirrel Sunrise Management Area. For the purpose of this section, eligible Dene/Metis beneficiaries means those beneficiaries who:

- (a) as of December 31, 1987, were eligible pursuant to the Wood Buffalo National Park Game Regulations to harvest wildlife within the Park; or
- (b) are able to establish to the satisfaction of the Minister, after consultation with the Board, their direct descent by birth or adoption from a person who held a permit to harvest wildlife within the Park.

18.4.2 The Squirrel Sunrise Management Board shall determine how and to whom amongst the Dene/Metis beneficiaries permits to harvest wildlife may be allocated to harvest wildlife within the Squirrel Sunrise Management Area.

- 18.4.3 The Board may allocate harvesting permits for the Squirrel Sunrise Management Area to persons who are not Dene/Metis beneficiaries but who are otherwise eligible pursuant to the Wood Buffalo National Park Game Regulations to harvest wildlife within the Park.
- 18.4.4 The harvesting of wildlife by Dene/Metis will be managed in a manner consistent with the protection of wildlife habitat, the maintenance of viable wildlife populations, the natural evolution of the ecosystem and associated plant and animal species and public use and enjoyment of the Park.
- 18.4.5 The exercise of the rights of Dene/Metis under this chapter is subject to legislation enacted for reasons of conservation, public health or public safety in addition to any other limitations provided for in this agreement. When proposing changes to legislation or regulations which may affect the exercise of Dene/Metis rights under this chapter, the Minister shall consult with the Board.
- 18.4.6 Sport fishing may be permitted by the Minister. Sport hunting will not be permitted in the Park.
- 18.4.7 Permits required for wildlife harvesting will be issued without charge.
- 18.4.8 Except for the harvesting of furbearers, the harvesting of wildlife shall be limited to the personal use of beneficiaries or for gift, trade, barter or sale for the personal use of Dene/Metis who reside in or adjacent to the Park or other persons of aboriginal origin who are eligible to harvest wildlife within the Park.
- 18.4.9 Dene/Metis beneficiaries may, subject to legislation, sell the non-edible parts of legally harvested wildlife in the form of traditional arts and crafts.

18.4.10 Non-participants who held Park hunting permits at the date of Settlement Legislation and their children may continue to harvest wildlife after Settlement Legislation if permitted by and in accordance with legislation.

18.5 PLANTS

18.5.1 Dene/Metis beneficiaries may gather plant materials, not including trees, for food, cultural, and medicinal purposes, for personal use, and for purposes reasonably required in the exercise of wildlife harvesting rights within the Squirrel Sunrise Management Area, subject to Park management plans and to regulations enacted for reasons of conservation, public safety and protection of the environment from significant damage. Such plants may be given to, traded and bartered with other aboriginal people who have traditionally used and occupied the Park and other Dene/Metis who live in the settlement area immediately adjacent to the Park, for their personal use.

18.5.2 Dene/Metis beneficiaries may harvest trees for the construction and maintenance of cabins and camps within the Squirrel Sunrise Management Area and for fuel use within the Squirrel Sunrise Management Area. The harvesting of trees within the Park shall be subject to Park management plans and to regulations enacted for reasons of conservation, public safety and protection of the environment from significant damage.

18.6 ECONOMIC OPPORTUNITIES

18.6.1 It is the intention of the parties to increase the number of Dene/Metis employed by the Park, estimated as at the date of this agreement, particularly in the areas of management, administration, resource conservation and delivery of visitor service and information.



- 18.6.2 To contribute to the achievement of this objective, a ten year training and development program for the Dene/Metis will be set out in the Final Agreement to assist Dene/Metis beneficiaries in qualifying for such employment.
- 18.6.3 Without limiting the areas in which training will be focused, they will include opportunities in:
- (a) park management;
  - (b) administration;
  - (c) resource conservation; and
  - (d) the delivery of visitor services and information
- 18.6.4 The program will commence within three (3) years after the date of signing of the Final Agreement.
- 18.6.5 To the extent that commercial ventures and economic activities in relation to wildlife and tourism may be permitted in the Squirrel Sunrise Management Area, a designated Dene/Metis organization shall have the right of first refusal to any new licence to carry on such ventures or activities and to take up any license in force at the date of settlement which is not renewed.
- 18.6.6 In the event that natural resources other than wildlife are allowed to be harvested or extracted on a commercial basis from the Squirrel Sunrise Management Area, the Dene/Metis shall be given the preferential right to harvest or extract such resources under the supervision of the Park Superintendent and to use or sell the resources harvested therefrom outside the Park.
- 18.6.7 In the event that manipulation of wildlife populations by way of a controlled harvest or relocation is required in the Squirrel Sunrise Management Area, the Dene/Metis

shall be given the preferential right to conduct the harvest or relocation under the supervision of the Park Superintendent and, in the case of harvesting, may at the discretion of the Minister, be permitted to dispose of wildlife parts and products resulting therefrom outside the Park. Where such manipulations give rise to commercial opportunities, the provisions of 18.6.5 shall apply.

**18.7**      SUBSURFACE RESOURCES

**18.7.1**    Exploration and development of non-renewable resources will not be permitted within the boundaries of the Park except for the removal of sand, stone and gravel for construction purposes within the Park.

**18.8**      GENERAL

**18.8.1**    Canada will continue to make every reasonable effort to correct man induced changes to the natural water regime in the Squirrel Sunrise Management Area.

**18.8.2**    The Squirrel Sunrise Management area of the Park shall be managed cooperatively by the Dene/Metis and Canada and shall, except as otherwise provided in this Agreement, be managed pursuant to the National Parks Act, the National Parks Policy, and Wood Buffalo National Park Management Plans which are in effect from time to time.

**18.9**      INTERIM PROVISION

**18.9.1**    Between this agreement and Final Agreement, Canada agrees not to change the Wood Buffalo National Park Game Regulations as they apply to eligible Dene/Metis without consulting the Dene/Metis Negotiations Secretariat.

ESTABLISHMENT OF A NATIONAL PARK IN THE VICINITY OF EAST  
ARM OF GREAT SLAVE LAKE

Whereas lands have been withdrawn by Canada and reserved for the establishment of a national park in the vicinity of the East Arm of Great Slave Lake, herein referred to as "the Park";

And whereas the lands withdrawn are within the Dene/Metis settlement area and are important to the Dene/Metis, particularly those Dene/Metis who live in the community of Snowdrift;

And whereas Canada has sought the support of the Lutsel k-e Dene Band of Snowdrift for the establishment of the Park;

And whereas the Lutsel k-e Dene Band has passed a resolution supporting negotiation of the terms and conditions under which the Park would be established;

And whereas the establishment of the Park and the terms under which the Park may be used and occupied by Dene/Metis must be considered prior to the selection of lands by Dene/Metis in the vicinity of the East Arm of Great Slave Lake:

- 19.1.1 It is the intent of the parties to negotiate by January 1, 1989, the terms and conditions under which the Park would be established. These park negotiations will be under the aegis of the comprehensive land claims negotiations.
- 19.1.2 If by January 1, 1989, either Canada or the Dene/Metis indicates that it is not prepared to have the Park established, the implications thereof will be reviewed by the parties.

COMPENSATION FOR LOSSES IN RELATION TO WILDLIFE  
HARVESTING

20.1.1 In this chapter,

"compensation" means a cash payment, either lump sum or a periodic payment, or non-monetary compensation such as replacement or substitution of damaged or lost property or equipment or relocation or transportation to a different harvesting locale or a combination of such elements.

"wildlife harvesting" means wildlife harvesting pursuant to this agreement.

20.1.2 (a) A developer is liable absolutely, without proof of fault or negligence, for losses suffered by a participant as a result of its development activity in respect of:

- (i) loss or damage to property or equipment used in wildlife harvesting or to wildlife harvested;
- (ii) present and future loss of income from wildlife harvesting;
- (iii) present and future loss of wildlife harvested for personal use or which is provided by the participant to other Dene/Metis for their personal use.

(b) Notwithstanding 20.1.2(a), a developer shall not be liable with respect to the establishment of a national park, a national historic park, or a protected area, nor for any lawful activity within a park or protected area, or within the Squirrel Sunrise Management Area of Wood Buffalo National



Park, except for direct loss or damage to property or equipment used in wildlife harvesting or to wildlife harvested.

- 20.1.3 Participants shall make their best efforts to mitigate any losses or damage referred to in 20.1.2
- 20.1.4 If agreement cannot be reached between a developer and a participant with respect to a claim for compensation, a participant may refer the matter to arbitration pursuant to the arbitration provisions of the Final Agreement.
- 20.1.5 An arbitrator, if a claim is proven, may:
- (a) award compensation to a participant with provision for review of the award, if appropriate;
  - (b) recommend that a developer or a participant take or refrain from taking certain action in order to mitigate against further loss or damage; and
  - (c) on review of a previous award, determine whether the developer or the participant have adopted any recommendations made under (b).
- 20.1.6 Nothing in this chapter is intended to prejudice the legal rights of participants to sue for damages from any person. However, if a participant resorts to arbitration, the arbitration provisions of this agreement shall apply.
- 20.1.7 Nothing in this chapter is intended to prejudice the negotiations of agreements between the Dene/Metis and developers with respect to wildlife compensation, including the process for settling and resolving claims under this chapter.

20.1.8 Legislation may provide for limits of liability of developers, the burden of proof on claimants and any other matters not inconsistent with this agreement.

21 DENE/METIS LANDS

21.1 TENURE AND SELECTION

21.1.1 The Dene/Metis shall be granted at the time of settlement legislation:

(a) 66,100 square miles of lands in fee simple, reserving therefrom the mines and minerals\*, whether solid, liquid or gaseous that may be found to exist within, upon or under such lands and the right to work the same, subject to existing rights, titles or interests in the lands, and

(b) 3,900 square miles of lands in fee simple including the mines and minerals, whether solid, liquid or gaseous that may be found to exist within, upon or under such lands, subject to existing rights, titles or interests in the lands, 700 square miles of which will be selected by the Dene/Metis of Aklavik \*\* from lands described in PC 1984-1678 ("The Mackenzie Delta Withdrawal from Disposal Order") and notwithstanding 21.1.4 in accordance with the Memorandum of Agreement regarding overlap resolution between the Inuvialuit, Dene/Metis and Canada dated February 9, 1984.

\* Mines and minerals to be defined in the Final Agreement.

\*\* Provisions in respect of the Aklavik lands will be completed within four months of the signing of this agreement and will be set out in the Final Agreement.

21.1.2 The lands shall be selected in accordance with this agreement. A legal description of the lands will be annexed to the Final Agreement.

- 21.1.3 Unless otherwise provided in the legal description, the Dene/Metis title shall include title to the beds of lakes, rivers and other water bodies within Dene/Metis lands. The Dene/Metis title shall not include title to the beds of lakes, rivers and other water bodies where Dene/Metis lands adjoin such water bodies on only one bank or do not enclose the water body.
- 21.1.4 Dene/Metis settlement lands may be conveyed only to government in exchange for other lands, or to Dene/Metis organizations. This section shall not be interpreted to prevent the Dene/Metis from granting leases or licences to non-participants to use or occupy Dene/Metis lands.
- 21.1.5 Title to Dene/Metis lands shall vest in the designated Dene/Metis organization from the date of settlement legislation.
- 21.1.6 Title to lands selected shall be transferred to one or more designated Dene/Metis organizations and shall be registered in the settlement area in a manner to be set out in the Final Agreement.
- 21.1.7 Dene/Metis land selection shall be made so as to leave communities with sufficient land for public purposes and for private, residential and commercial purposes and to leave sufficient land which is reasonably accessible to communities for public use for recreation and harvesting wildlife.
- 21.1.8 Land selections will be fairly representative of the topography and quality of the lands in each region in the settlement area.
- 21.1.9 The lands selected in respect of any community need not be identical in quantity to the lands selected in respect of other communities.



21.1.10 Existing fee simple lands are not available for selection unless the title holder consents.

21.1.11 (a) After land selections have been completed in the settlement area, legal descriptions of each parcel will be prepared by Canada and approved by the Dene/Metis. The parties agree that such descriptions may be modified subsequently by mutual consent to ensure that the quantum of each parcel conforms to the agreed amount as described in the Final Agreement, plus or minus 1%. Should it be agreed that a survey of a particular parcel or part thereof is required, Canada agrees to conduct such survey at its expense.

(b) Should a survey of any parcel show an area in excess of 1% of the agreed amount, the Dene/Metis shall promptly reconvey to Canada an area of land equal to the excess; if the area of any parcel is less than the agreed amount, in excess of 1%, Canada shall promptly convey to the Dene/Metis an area of land equal to the deficiency.

(c) To the extent possible, such adjustments shall be made in a manner agreed to at the time of the land selection for each parcel.

21.1.12 The boundaries of all lands selected shall, to the extent possible, be defined by existing boundary survey traverses or by reference to natural features such as banks of rivers and lakes and well-defined heights of land for determining surveying points, with preference being given to natural boundaries. Dene/Metis lands shall not be selected within 100 feet of the boundary of the settlement area.

21.1.13 Canada shall make available to a designated Dene/Metis organization the data and information relating to

resources and to existing leases and other alienations on Dene/Metis lands as soon as practicable after settlement legislation.

21.1.14 Dene/Metis lands shall be deemed not to be lands reserved for Indians within the meaning of the Constitution Act, 1867 nor reserves within the meaning of the Indian Act.

21.1.15 It is recognized that Canada intends to revoke the reservation by notation in the Indian Lands registry of lands reserved in the name of the Department of Indian Affairs and Northern Development for Indian housing within the local government boundaries where the Dene/Metis have selected lands.

## 21.2 ZONES

21.2.1 The Dene/Metis shall select not more than 13,200 square miles of land within zone "A" set out on a map initialled by the Chief Negotiators May 30, 1988 and not more than 20,000 square miles of land within zones "A" and "B" set out on the same map.

## 21.3 INTERIM MEASURES

21.3.1 (a) Canada agrees that following this agreement, and after land selection for each community has been completed and the description of such lands has been agreed upon between the parties, such lands shall be withdrawn under the Territorial Lands Act and the equivalent territorial legislation. Such withdrawals shall be subject to existing interests and associated benefits and privileges, including rights of renewal as might have been granted had the land not been withdrawn. Between the date of the land withdrawal and settlement legislation, no other leases or other alienations of such selected Dene/Metis lands shall be granted by Government without the consent of the

Dene/Metis, except in cases of overriding national interest after consultation with the Dene/Metis.

(b) After the signature of this agreement and until the passage of settlement legislation, no land shall be sold, leased, licensed or made subject to a land use permit in the settlement area unless at least 30 days notice to the Dene/Metis Negotiations Secretariat is given except for a license, sale, lease or land use permit with respect to lands within the settled areas of municipalities.

21.3.2 Any royalties, rents or other income in respect of Dene/Metis lands accruing to Government after the date of the Final Agreement shall be accounted for and an equal amount paid to the Dene/Metis as soon as practicable after settlement legislation.

21.3.3 No new parks or other protected areas shall be established in the settlement area without the consent of the Dene/Metis Negotiations Secretariat before settlement legislation unless, in the opinion of the Minister, there is a pressing conservation need and after consultation with the Negotiations Secretariat. However, Government may withdraw lands, establish park reserves, and take other preliminary steps leading to such establishment in consultation with the Negotiations Secretariat.

## **22        ACCESS TO DENE/METIS LANDS**

### **22.1       GENERAL**

#### **22.1.1    In this chapter:**

"Dene/Metis lands" means Dene/Metis settlement lands and undeveloped parcels of Dene/Metis municipal lands larger than four hectares.

**22.1.2**    Except as provided in this chapter, non-participants may only enter, cross or stay on Dene/Metis lands with the consent of the Dene/Metis.

**22.1.3**    Access of non-participants to or across parcels of developed Dene/Metis municipal lands, and to or across parcels of undeveloped Dene/Metis municipal lands smaller than four hectares is governed only by laws of general application.

**22.1.4**    Unless otherwise provided in an agreement with the Dene/Metis, the exercise of access provided in **22.2** and **22.3.1** and **22.4.2** is subject to the following conditions:

(a) there be no significant damage to the lands, and the user shall be responsible for any such damage;

(b) there be no mischief committed on the lands; and

(c) there be no significant interference with Dene/Metis use of and peaceable enjoyment of the lands.

**22.1.5**    Unless otherwise provided in an agreement with the Dene/Metis, persons using a right of access to or across Dene/Metis lands do so at their own risk and have no right of action against the Dene/Metis for alleged loss suffered or damage arising therefrom.



22.1.6 Unless otherwise provided by legislation, there shall be no fee or charge attached to the exercise of access provided in 22.2 and 22.3.1 and 22.4.2.

22.1.7 If the designated Dene/Metis organization proposes to establish terms and conditions, other than fees and charges, on the exercise of access under 22.2 or 22.3.1 and 22.4.2, it shall consult Government and attempt to negotiate agreement with government. If agreement cannot be reached, the matter shall be referred to arbitration. Conditions may not be imposed in relation to law enforcement or inspections authorized by law.

## 22.2 PUBLIC ACCESS

22.2.1 There shall be a public right of access over Dene/Metis lands from the actual waters edge to one hundred (100) feet inland measured from the ordinary high water mark as determined by the change in vegetation between the shore and the upland of navigable rivers and navigable lakes that can be entered from such rivers. Navigable waters and the rights of access and portages associated with such navigable waters may be used by any person for travel by water or ice and for recreation. During land selection the parties may determine locations where the public right of access and or use of portages may be restricted. No person using the right of access shall engage in any development activity or establish any permanent camp or structure.

22.2.2 (a) Members of the public may fish in navigable waters within Dene/Metis lands in accordance with legislation.

(b) Members of the public may use the right of access referred to in 22.2.1 to hunt migratory birds and to fish in accordance with legislation.

(c) During land selection the parties shall determine those areas where the public access referred to in (a) and (b) shall apply. These negotiations will be intended to balance the desire of the Dene/Metis for exclusive possession of their lands and the interest of the public in having sufficient opportunity to fish and hunt migratory birds.

22.2.3 Anyone may enter and stay on Dene/Metis land without prior notice for a limited time in an emergency.

22.2.4 (a) Members of the public may cross Dene/Metis lands to exercise a right, interest, or privilege on adjacent lands, such as to go to or from their place of work or to or from a place of recreation. Where practicable, such crossings shall take place either on routes recognized by the local Dene/Metis authority or upon prior notice to it.

(b) A non-participant having a legal interest on Dene/Metis lands at the time of land withdrawal, such as a cabin, has a right of access to allow the continued use of the legal interest.

22.2.5 With the consent of a designated Dene/Metis organization, persons conducting research may enter, cross and stay on Dene/Metis lands for a reasonable time, to conduct research.

### 22.3 GOVERNMENT ACCESS

22.3.1 Agents, employees and contractors of Government shall have the right to enter, cross and stay on Dene/Metis lands and to use natural resources incidental to such access to deliver and manage Government programmes, carry out inspection pursuant to law, and to enforce laws. Government shall give prior notice of such access to a

designated Dene/Metis organization when, in the opinion of government, it is reasonable to do so.

22.3.2 If Government requires the continuous use or occupancy of Dene/Metis lands for more than two (2) years, such use or occupancy shall be on terms negotiated between Government and a designated Dene/Metis organization. Failing agreement on the terms, the matter shall be referred to arbitration.

22.3.3 In addition to access provided by 22.3.1, and without limiting the authority of the Department of National Defence to enter on lands in accordance with legislation, the Department of National Defence shall have access to Dene/Metis lands for military manoeuvres but only after negotiating an agreement with a designated Dene/Metis organization with respect to contact persons, areas, timing, land use rent and compensation for damages caused to Dene/Metis lands and other property. If an agreement is not reached, the parties may refer the matter of the terms of the agreement to arbitration.

22.3.4 Government shall give reasonable advance notice of military exercises or operations to local inhabitants of any area to be affected in the settlement area.

#### 22.4 COMMERCIAL ACCESS

22.4.1 Third parties holding, as of the date of land withdrawal, a land use permit or other right of access to or across lands which become Dene/Metis lands shall retain their rights and any privileges or rights of renewal as if the lands had not become Dene/Metis lands. Any change in a land use permit or right of access, other than a renewal or replacement, after the date of settlement legislation shall require the agreement of a designated Dene/Metis organization or failing such agreement, an order of the Surface Rights Board.

- 22.4.2** Third parties who require access across Dene/Metis lands to reach adjacent lands for commercial purposes have the right to do so, without the consent of the Dene/Metis or the Surface Rights Board if:
- (a) the access is of a casual and insignificant nature provided prior notice is given to a designated Dene/Metis organization, or
  - (b) the route used is recognized and being used for such access on a regular basis, whether year round or intermittently, prior to the time of the settlement legislation, and there is no significant alteration in the use of the route.
- 22.4.3** Subject to **22.4.1** and **22.4.2**, third parties who reasonably require access across Dene/Metis lands to reach adjacent lands for commercial purposes may have such access with the agreement of a designated Dene/Metis organization or failing such agreement, an order of the Surface Rights Board.
- 22.4.4** Subject to **22.4.1** and **22.4.2**, third parties having a right to explore, develop, produce or transport non-renewable resources under or on Dene/Metis lands may have access to Dene/Metis lands for the purposes of exploring, developing, producing or transporting non-renewable resources with the agreement of a designated Dene/Metis organization or failing such agreement, an order of the Surface Rights Board.
- 22.4.5** In **22.4.1** to **22.4.4**, "third party" includes Government, and "commercial purposes" includes the exploration, development, production and transportation of non-renewable resources.
- 22.4.6** The Surface Rights Board may determine when acting pursuant to **22.4.3** that access across Dene/Metis lands is



not reasonably required, and shall ensure that any access across or to Dene/Metis lands is by a suitable route least harmful to the Dene/Metis.

**23        EXPROPRIATION OF DENE/METIS LAND**

- 23.1.1** It is of fundamental importance to maintain the integrity of Dene/Metis lands. Therefore, as a general principle Dene/Metis lands shall not be expropriated.
- 23.1.2** Notwithstanding 23.1.1, Dene/Metis lands may be expropriated by an expropriating authority.
- 23.1.3** Consent to such expropriations shall be given by the Governor in Council in the case of an Act of Parliament, or the Executive Council of the Government of the Northwest Territories in the case of an Act of the Northwest Territories. Notice of the intention of an expropriating authority to seek the approval of the Governor in Council or the Executive Council, as the case may be, shall be given to a designated Dene/Metis organization by the expropriating authority.
- 23.1.4** An expropriating authority shall negotiate with a designated Dene/Metis organization the location and extent of lands to be acquired and compensation.
- 23.1.5** As a general principle, compensation to be offered for Dene/Metis lands shall be the provision of alternative lands of equivalent significance and value in the settlement area.
- 23.1.6** If the provision of alternative lands of equivalent significance and value is not reasonably possible, or is not agreed upon, compensation shall be in money or any combination of land and money.
- 23.1.7** In determining the value of lands for the purpose of compensation, the value of the lands for the purpose of harvesting of wildlife and the cultural or other special value to the Dene/Metis shall be taken into account.

- 23.1.8 In the event the parties do not agree on compensation, the matter shall be referred to arbitration. An arbitrator may make an award in land, money or any combination thereof and, where appropriate, costs and interest. The arbitrator shall not award any land which is subject to a third party interest unless the designated Dene/Metis organization and the expropriating authority agree, in which case the third party interest shall continue in accordance with its terms and conditions, including any rights of renewal.
- 23.1.9 The parties may agree not to refer the determination of compensation to arbitration but to determine compensation pursuant to the expropriating authority's statutory procedure. In such cases the statutory procedure shall be deemed to include the following:
- (a) service of a notice of intention to expropriate;
  - (b) a requirement to offer compensation;
  - (c) a provision for a compensation hearing; and
  - (d) a requirement for compensation in accordance with 23.1.6 and 23.1.7;
  - (e) power to award costs with interest.
- 23.1.10 Nothing in this chapter is intended to eliminate or duplicate any legislative requirement for a public hearing or inquiry into the necessity of an expropriation.
- 23.1.11 Section 23.1.8 does not apply to expropriations under the National Energy Board Act, or successor legislation, except that:

- (a) an arbitration committee appointed under that Act to determine compensation shall include at least one nominee of the Dene/Metis;
- (b) the arbitration committee shall take into account the cultural or other special value of the land to the Dene/Metis in determining the value of the land; and
- (c) the arbitration committee may award land of the expropriating authority, or money, or any combination thereof.

**23.1.12** Any Dene/Metis lands which are expropriated will no longer be Dene/Metis lands under this agreement. Lands acquired by the Dene/Metis under these provisions shall be Dene/Metis lands.



- 24.1.1 (a) The Dene/Metis shall provide supplies of, and access to, sand, gravel, clay and other like construction materials on Dene/Metis lands if, in the opinion of the Land and Water Management Board, no alternative source of supply is reasonably available in the surrounding area.
- (b) The Dene/Metis are entitled to fair and reasonable compensation for any materials supplied under (a).
- (c) If any person or government, and the Dene/Metis, do not agree on any terms or conditions respecting the supply of, or access to, materials under (a), the person or government seeking the supply or access may refer the matter to the Land and Water Management Board which shall decide all matters between the parties including the question of priorities between the Dene/Metis and other users. The decision of the Board shall be final and binding on the parties except for judicial review as in the case of an arbitrator's decision under this agreement.
- (d) The Board may establish rules and procedures for the carrying out of this chapter.

## **25        MUNICIPAL LANDS**

### **25.1        OBJECTIVES**

- 25.1.1**    To provide the Dene/Metis with land within local government boundaries for residential, commercial, industrial and traditional purposes.
- 25.1.2**    To ensure that Dene/Metis municipal lands will have legal characteristics similar to other privately owned lands within municipalities.
- 25.1.3**    To ensure that local governments maintain adequate land for public infrastructure requirements and for residential, commercial, industrial and recreational purposes.
- 25.1.4**    To ensure that municipal growth occurs in a timely, logical and cost effective manner, through negotiations between the Dene/Metis and territorial or local governments.
- 25.1.5**    To allow for the establishment of new local governments and for the development and change of status of local governments.

### **25.2        GENERAL PROVISIONS**

- 25.2.1**    Subject to this chapter, the provisions of this agreement apply to Dene/Metis municipal lands.
- 25.2.2**    Dene/Metis municipal lands may be conveyed to a participant or any other person and thereupon cease to be Dene/Metis lands.
- 25.2.3**    At the time of settlement legislation or as soon as practicable thereafter, Dene/Metis municipal lands will be transferred to a designated Dene/Metis organization.

25.2.4 Nothing in this agreement is intended to prejudice the authority and jurisdiction of local governments or to interfere with their political development.

25.3 ACQUISITION OF LAND FOR PUBLIC PURPOSES

25.3.1 The Dene/Metis agree that Dene/Metis municipal lands can be made available to local governments for the purpose of public road and utility corridors which will be of general advantage to the community. To this end, a designated Dene/Metis organization will enter into negotiations with a local government which proposes to acquire Dene/Metis municipal lands for public roads or utility corridors as set out herein.

25.3.2 Such negotiations shall proceed on the basis that any lands so acquired by the local government shall be without cost to the local government provided that;

(a) the total lands so acquired do not exceed 10% of the area of any one parcel of Dene/Metis municipal lands;

(b) the negotiations will only apply to parcels of Dene/Metis municipal lands which are each in excess of 2 hectares in area;

(c) improvements on the land will be paid for at fair market value;

(d) Dene/Metis interests are taken into account in relation to the extent and location of the lands to be acquired.

(e) the local government will not acquire the lands by expropriation regardless of the outcome of negotiations.

25.3.3 If a negotiated solution as described above is not possible, and a local government determines that

nevertheless the acquisition of such lands is essential in the public interest, the local government may refer the matter to arbitration. The jurisdiction of the arbitrator will be limited to a consideration of the necessity of the acquisition, the extent and location of the lands to be acquired by the local government and the value of improvements.

#### **25.4**     TAXATION

- 25.4.1** Dene/Metis developed municipal lands are subject to real property taxation in accordance with laws of general application. Other Dene/Metis municipal lands are not subject to any real property taxation by the federal, territorial or local government.
- 25.4.2** Should a Dene/Metis participant or other person who occupies Dene/Metis lands fail to pay real property taxes levied against such participant or other person in respect of such lands when such taxes are in arrears for a period of one year or more, the designated Dene/Metis organization which holds title shall be liable to pay such taxes after notice from the local government.
- 25.4.3** To assist in the post settlement transition, the Government of Canada agrees to pay to local governments any real property taxes levied for five years from the date of settlement legislation in respect of Dene/Metis municipal lands which, prior to the Final Agreement, were lands noted within the Land Register of DIAND as reserved in the name of the Indian Affairs Branch. During such time, Canada shall have the same rights in respect of any assessment of taxes as a property owner.
- 25.4.4** Any Dene/Metis participant who owns and occupies a residence on Dene/Metis lands will be eligible to apply for a property tax rebate pursuant to the Homeowner's Property Tax Rebate Act (NWT) or any successor



legislation notwithstanding that title to the land is held by a designated Dene/Metis organization.

**25.5**      MUNICIPAL LAND SELECTION

**25.5.1**    The following categories of land may be selected within local government boundaries.

- (a) Lands noted within the Land Register of DIAND as reserved in the name of the Indian Affairs Branch, with the exception of public roads or facilities within those lands;
- (b) Lands owned or occupied by participants, whether through lease or occupancy, excepting public roads, provided the owner or occupant and any other person with a superior interest in the land agrees in writing. The Dene/Metis shall obtain a transfer or release of the participant's interest prior to the lands becoming Dene/Metis municipal lands.
- (c) Unoccupied Crown or Commissioner's lands;
- (d) Other lands as may be agreed by the parties.

**25.5.2**    Lands in the following categories may not be selected:

- (a) Land which is privately owned in fee simple or subject to an agreement for sale, unless the owner or purchaser agrees in writing. The Dene/Metis shall obtain a transfer or release of the owner or purchaser's interest prior to the lands becoming Dene/Metis municipal lands;
- (b) All land administered by and/or reserved in the name of any department or agency of the federal, territorial or municipal governments, except in exceptional circumstances.

## **25.6**      CHANGES IN MUNICIPAL BOUNDARIES

- 25.6.1**    Prior to any change in a local government boundary the GNWT will consult with the appropriate Dene/Metis authority.
- 25.6.2**    Where there is a demonstrated need to change the boundary of a local government, and where such change will include Dene/Metis lands, the location of the new boundary shall be negotiated by the GNWT and the Dene/Metis. Where the GNWT and the Dene/Metis fail to reach agreement within 120 days, either party may refer the matter to arbitration.
- 25.6.3**    Once a new local government boundary is established, Dene/Metis lands within the boundary have the status of Dene/Metis municipal lands and Dene/Metis lands beyond the boundary have the status of Dene/Metis settlement lands.

## **25.7**      CHANGE IN STATUS

- 25.7.1**    A local government may apply to the GNWT to change its status to a settlement, an incorporated charter community, hamlet, village, town or city with the consent of its residents.

## **25.8**      NEW LOCAL GOVERNMENTS

- 25.8.1**    Where a new local government is proposed which would include Dene/Metis lands selected under this Agreement, the designation and establishment of such local governments shall be by way of negotiation and agreement between the Territorial Government and a designated Dene/Metis organization.

**25.9**      EXISTING LOCAL GOVERNMENTS

**25.9.1**    The following are local governments in the settlement area existing as of the date of this Agreement:

The Town of Inuvik  
The Hamlet of Aklavik  
The Hamlet of Fort McPherson  
The Village of Norman Wells  
The Hamlet of Fort Norman  
The Hamlet of Fort Franklin  
The Village of Fort Simpson  
The Hamlet of Fort Liard  
The Hamlet of Fort Providence  
The Town of Hay River  
The Town of Fort Smith  
The City of Yellowknife  
The Hamlet of Rae-Edzo  
The Hamlet of Lac La Martre  
The Town of Pine Point  
The Settlement of Enterprise  
The Hay River Corridor  
The Settlement of Fort Good Hope  
The Settlement of Fort Resolution  
The Settlement of Arctic Red River  
The Settlement of Colville Lake  
The Settlement of Wrigley  
The Settlement of Trout Lake  
The Settlement of Jean Marie River  
The Settlement of Nahanni Butte  
The Settlement of Kakisa  
The Settlement of Snowdrift  
The Settlement of Dettah  
The Settlement of Rae Lakes  
The Settlement of Snare Lake

**26**      **INGRAHAM TRAIL AREA**

**26.1**     **DEFINITION**

**26.1.1**   The Ingraham Trail area is all that area commencing at....(to be completed prior to the Final Agreement).

**26.2**     **GENERAL PROVISIONS**

**26.2.1**   Land selection may occur within the Ingraham Trail Area provided that land subject to cottage lot leases shall not be selected without the agreement of the particular cottage lot leaseholder.

**26.2.2**   Following the execution of this agreement, a local committee composed of representatives of the Dene/Metis, Canada, and the Government of the Northwest Territories shall commence the development of a land use plan and zoning regulations for the Ingraham Trail Area. There shall be equal representation between nominees of the Dene/Metis and government.

**26.2.3**   The Ingraham Trail Area land use plan shall be compatible with adjacent land use plans within the settlement area.



- 27.1.1 (a) Subject to the provisions of this agreement, the Dene/Metis have the exclusive right to use waters which are on or flow through Dene/Metis lands when such waters are on or flowing through Dene/Metis lands.
- (b) Dene/Metis use of water is subject to legislation in respect of water use in force from time to time.
- 27.1.2 Notwithstanding Dene/Metis ownership of beds of certain waterbodies, government retains the right to protect and manage water and beds of waterbodies throughout the settlement area for public purposes including:
- (a) management and research in respect of wildlife, and wildlife and aquatic habitat;
- (b) protection and management of navigation and transportation, establishment of navigation aids and devices, and dredging navigable waterbodies;
- (c) protection of community water supplies from contamination and degradation;
- (d) fighting fires;
- (e) flood control.
- 27.1.3 Unless otherwise provided for in legislation, the Dene/Metis right to use water shall not interfere with or take away from:
- (a) public rights of navigation and passage on waters;
- (b) use of water for emergency purposes; or
- (c) public access to fish and hunt migratory birds.

- 27.1.4 Government or non-participants having a right or interest on Dene/Metis lands which requires the use of water, shall have the right to use the water, subject only to this agreement and legislation in respect of water use in force from time to time.
- 27.1.5 The property in all water in the settlement area may be determined by legislation respecting water in force from time to time.
- 27.1.6 Subject to legislation respecting the use of water:
- (a) the Dene/Metis have the right to have waters which are on or flow through or are adjacent to Dene/Metis lands remain substantially unaltered as to quality, quantity and rate of flow when such waters are on or flow through or are adjacent to Dene/Metis lands; and
  - (b) the Dene/Metis shall not use water so as to substantially alter the quality, quantity and rate of flow of waters which are on or flow through or are adjacent to their lands.
- 27.1.7 The Dene/Metis have a cause of action against any person in respect of any action or use of water not authorized by law, which substantially alters the quality, quantity or rate of flow of waters which are on or flow through or are adjacent to Dene/Metis lands, with such remedies as if the Dene/Metis had riparian rights.
- 27.1.8 A designated Dene/Metis organization shall have standing at all times in a court of competent jurisdiction in the Northwest Territories to seek a declaration of the authority of any person to alter the quality, quantity or rate of flow of water in the settlement area.

27.1.9 (a) Government, assisted by the Land and Water Management Board, shall use its best efforts to negotiate agreements with other jurisdictions which manage drainage basins shared with the settlement area for the management of water in the shared drainage basin.

(b) Government shall consult with a designated Dene/Metis organization with respect to the formulation of government positions on the management of water in a shared drainage basin before negotiating an agreement pursuant to (a).

27.1.10 Nothing in this agreement shall derogate from the ability of any person to use waters for domestic use as provided in legislation.

## 27.2 WATER USE COMPENSATION

27.2.1 No water use anywhere in the settlement area which, in the opinion of the Land and Water Management Board will likely substantially alter the quality, quantity or rate of flow of waters on or flowing through or adjacent to Dene/Metis lands, when such waters are on or flowing through or adjacent to Dene/Metis lands, shall be authorized by the Land and Water Management Board unless the applicant for the authorization has entered into an agreement with a designated Dene/Metis organization to compensate the Dene/Metis for loss or damage which may be caused by such alteration, or the Land and Water Management Board has made an order under 27.2.2

27.2.2 (a) If the designated Dene/Metis organization and the applicant for a water use authorization described in 27.2.1 do not reach an agreement on compensation within any time limit established by the Land and Water Management Board, either party may refer the matter of compensation to the Board.

(b) The Land and Water Management Board may authorize a water use described in 27.2.1 prior to making an order under 27.2.2(a).

27.2.3 In determining the amount of compensation payable to the Dene/Metis in respect of a water use described in 27.2.1, the Land and Water Management Board shall consider;

- (a) the effect of the water use on Dene/Metis use of water on or adjacent to Dene/Metis lands;
- (b) the effect of the water use on Dene/Metis lands, taking into account any cultural or special value of the lands to the Dene/Metis;
- (c) the nuisance, inconvenience and noise caused by the water use to the Dene/Metis on Dene/Metis lands;
- (d) the effect on wildlife harvesting of the Dene/Metis; and
- (e) subject to legislation, such other factors as the Land and Water Management Board may consider relevant.

27.2.4 Where a water use is proposed outside the settlement area, but within the Northwest Territories, which will likely substantially alter the quality, quantity or rate of flow of water on or through or adjacent to Dene/Metis lands, when such waters are on or flowing through or are adjacent to Dene/Metis lands, the water use shall not be authorized by the competent water authority unless the applicant for the water use has entered into an agreement with the Dene/Metis under 27.2.1 or the Land and Water Management Board has made an order under 27.2.2.

27.2.5 Nothing in this chapter is intended to give authority to any person to take or damage Dene/Metis lands except in accordance with this Agreement.



- 27.2.6 The relationship between the Wildlife Harvesting compensation chapter and the water use compensation chapter shall be set out in the Final Agreement.
- 27.2.7 "compensation" means a cash payment, either lump sum or a periodic payment, or non-monetary compensation such as replacement or substitution of damaged or lost property or equipment or relocation or transportation to a different harvesting locale or a combination of such elements.

## 28 LAND AND WATER MANAGEMENT

### 28.1 GENERAL

- 28.1.1 (a) An integrated system of land and water management is needed for and shall apply to the entire settlement area. It shall form an integrated part of land and water management for the Northwest Territories (NWT).
- (b) It is recognized that land and water management in the settlement area and in adjacent areas should be co-ordinated.
- (c) Government retains the ultimate jurisdiction for the management of land and water.
- 28.1.2 (a) The process of establishing new National Parks and National Historic Parks and Sites in the settlement area after the date of the settlement legislation shall be subject to the land use planning and environmental review provisions, but these provisions shall not apply to any National Park Reserves established prior to the date of the settlement legislation. The land use planning and land and water management provisions shall not apply to National Parks and National Historic Parks and Sites once established.
- (b) The environmental impact review provisions shall apply to development proposals in National Parks, National Park Reserves and National Historic Parks and Sites.
- (c) Legislation shall provide for co-ordination of the boards established pursuant to this chapter with the management of National Parks and bodies to be established under the National Parks chapter, and with the management of National Historic Parks and

Sites and bodies to be established under the Protected Areas chapter.

- 28.1.3 (a) Each of the boards referred to in this chapter shall be established as an institution of public government by legislation, which shall implement the provisions of this chapter and may provide for any other matter consistent with this chapter.
- (b) The costs of the boards referred to in this chapter shall be the responsibility of government. These boards shall prepare an annual budget, subject to review and approval by Government.
- (c) Legislation shall provide for the coordination of the activities of the boards referred to in this chapter, the Wildlife Management Board and the Surface Rights Board.
- (d) Legislation may provide for the consolidation of the functions of the boards referred to in this chapter and the re-allocation of particular areas of jurisdiction among the boards provided that neither the level of Dene/Metis participation nor the overall powers and responsibilities outlined in this chapter are diminished.
- 28.1.4 (a) The legislation implementing the provisions of this chapter shall provide for a method of monitoring the cumulative impacts of land and water uses on the environment, and for periodic environmental audits which shall be made public.
- (b) If any board or similar body is established by such legislation to carry out the monitoring and audit functions referred to in (a), the Dene/Metis shall be entitled to a meaningful role in such board or agency to be set out in legislation.

(c) If the monitoring or environmental audit functions referred to in (a) are carried out by a department of government, the department shall do so in consultation with a designated Dene/Metis organization.

28.1.5 When the Land Use Planning Board, the Land and Water Management Board, or the Environmental Impact Review Board is conducting any activity for a region which is being used by aboriginal persons who are party to an adjacent aboriginal land claims settlement in the NWT, the organization responsible for the adjacent land claims settlement shall each have the right to have representation on the Board. Each Board shall determine how to implement this subsection provided that the proportional representation of native groups and government, not including the chairperson, be maintained.

## 28.2 LAND USE PLANNING

28.2.1 Land use planning in the settlement area shall be in accordance with the July 28, 1983 "Basis of Agreement for Land Use Planning in the Northwest Territories" together with amending agreements thereto until settlement legislation, after which time the provisions stated herein shall apply.

28.2.2 Where amendments to the July 28, 1983 "Basis of Agreement for Land Use Planning in the Northwest Territories" in respect of the settlement area are sought or subsequent agreements are proposed, Canada and the Government of the Northwest Territories (GNWT) agree to include the Dene/Metis in the negotiations.

28.2.3 It is recognized that water resources planning within the settlement area is an integral part of land use planning.



28.2.4 The following principles shall guide the development of land use planning policies in the settlement area:

- (a) the primary purpose of land use planning shall be to protect and promote the existing and future well being of the residents and communities of the settlement area having regard to the interests of all Canadians;
- (b) special attention shall be devoted to protecting and promoting the existing and future social, cultural and economic well being of the Dene/Metis and of the lands used by them for harvesting and other uses of renewable and non-renewable resources and of their rights under the land claims settlement;
- (c) land use planning shall directly involve the communities and regions in the settlement area and the planning process shall be designed so as to ensure that the land use plans reflect the priorities and values of the residents of planning regions;
- (d) the plans developed through the planning process will provide for the conservation, development and utilization of land, resources and waters; and
- (e) land use plans are urgently required for areas where the environment is particularly fragile, such as in the Mackenzie Delta, and in areas of substantial settlement.

28.2.5 A Land Use Planning Board (the Planning Board) shall be established and shall have jurisdiction, in accordance with the provisions of this agreement, for the development of land use plans in the settlement area and may have such regional operations as provided for in legislation. The legislation may provide for the establishment of regional planning boards and for the

division of responsibility between any such boards and the Planning Board.

- 28.2.6 (a) The Planning Board and any regional Planning Board shall have equal membership from nominees of the Dene/Metis and of government, not including the chairperson.
- (b) Where any land use planning body has jurisdiction in an area larger than, but including the settlement area, there shall be equal membership from nominees of the relevant aboriginal groups, including the Dene/Metis, and of government, not including the chairperson.
- 28.2.7 Land use plans for the settlement area or sub-regions shall be prepared in consultation with affected local communities.
- 28.2.8 The use of land within local government boundaries may be regulated by the local or territorial government by community land use plans or by regulations. Land use plans, community land use plans and regulations shall be compatible.
- 28.2.9 Any person may apply to the Planning Board for an exception or amendment to a plan to allow a proposed use.
- 28.2.10 Decisions of the Planning Board recommending a plan, amending a plan or granting an exception to a plan shall be subject to review by the Minister and to judicial review in a manner to be provided by legislation.
- 28.2.11 Legislation shall provide for the relationship between land use plans and those authorities with jurisdiction to grant licences, permits, leases or interests relating to the use of land and water in the settlement area, including the issue of conformity with such plans.

28.2.12 The Planning Board referred to in 28.2.5 shall be established by legislation by April 1, 1991 or within two years of the date of settlement legislation whichever occurs later.

### 28.3 ENVIRONMENTAL IMPACT REVIEW

28.3.1 All development proposals in the settlement area including development proposals in relation to Dene/Metis lands, shall be subject to a process of environmental impact review as set out in this 28.3.

28.3.2 An Environmental Impact Review Board (the Review Board) shall be established in the settlement area having equal membership from nominees of the Dene/Metis and of government, not including the chairperson.

28.3.3 The legislation:

(a) may provide for development proposals or classes thereof which are exempt from the process of environmental impact review and may provide for the amendment of any such exemptions;

(b) shall provide that a development proposal which would otherwise be exempt from screening may be screened if in the opinion of the Review Board it is considered to be of special environmental concern by reason of its cumulative effects or otherwise.

28.3.4 A development proposal may be referred to the Review Board by a designated Dene/Metis organization or any governmental authority.

28.3.5 When a development proposal is referred to the Review Board it shall, unless otherwise provided in legislation, be screened and examined by the Review Board in order to determine:

- (a) that the proposed development will not likely have a significant impact on the environment and not likely be a cause of significant public concern and therefore should not be subject to an environmental impact review; or
- (b) that the proposed development will likely have a significant impact on the environment or cause significant public concern and should be subject to an environmental impact review.

28.3.6 If the Review Board determines that a development proposal should be subject to an environmental impact review, it shall so advise the Minister and it shall recommend that the review be conducted either by the Review Board or by some other body capable of conducting an environmental impact review.

28.3.7 The Minister shall direct that an environmental impact review be conducted either as recommended by the Review Board or, after consultation with the Review Board, otherwise by a body capable of conducting an environmental impact review.

- 28.3.8 (a) In the event that the Minister decides to refer an environmental impact review of a development proposal wholly within the settlement area to some other body, no less than one quarter of the appointees not including the Chairperson, to the other body which conducts the review shall be nominees of the Dene/Metis. Members of the Review Board are eligible to be nominated and appointed to this other body.
- (b) Where the body reviews a development proposal which overlaps the settlement area and adjacent comprehensive land claims areas, nominees put forward by the relevant aboriginal groups, including the



Dene/Metis, shall be no less than one quarter of the body's appointees, not including the chairperson.

- 28.3.9 The members of the Review Board or the other body shall be free of any conflict of interest relative to the development proposal; however, no member shall be disqualified solely on the ground of being a participant.
- 28.3.10 Notwithstanding a determination by the Review Board under 28.3.5(a), the Minister may direct that an environmental impact review be conducted.
- 28.3.11 The Review Board or other body which conducts an environmental impact review shall have regard to:
- (a) the protection of the existing and future economic, social and cultural well being of the residents and communities in the settlement area;
  - (b) the protection of the environment from significant damage; and
  - (c) in cases where a development proposal will likely result in a significant impact on the environment, the need for mitigative or remedial measures.
- 28.3.12 An environmental impact review of a development proposal shall include:
- (a) the submission by the proponent of an impact statement in accordance with any guidelines established by the Review Board or other body;
  - (b) such analysis by the Review Board or other body as is considered appropriate;
  - (c) public consultation or hearings in affected communities;



(d) a report resulting from the review to the Minister with a recommendation that a development proposal be approved, with or without conditions, or rejected.

28.3.13 The Minister shall consider the report and recommendation and may accept the recommendation, may refer the recommendation back for further consideration or, after consulting with the Review Board or body which made the recommendation, accept it with modifications, or reject it. The Minister may consider information not before the Review Board or body, and matters of the public interest not considered by the Review Board or body.

28.3.14 Written reasons, which shall be public, shall be given for all decisions and recommendations under 28.3.

28.3.15 In the event that the Minister decides to refer an environmental impact review to some other body, the Minister shall not make a final decision with respect to the development proposal until the Review Board has had a reasonable opportunity to consider the report of that other body and, if necessary, to report thereon to the Minister within time limits prescribed by the Minister.

28.3.16 Except in the case of an agency described in 28.3.17, all recommendations accepted by the Minister shall be implemented by each department and agency of government responsible for issuing a licence, permit or other authorization in respect of the development proposal to the extent of the legislative authority of each department and agency.

28.3.17 In the case of an independent regulatory agency such as the National Energy Board, the report described in 28.3.12(d) shall be forwarded to that agency as well as to the Minister. Sub-sections 28.3.13, 28.3.14, 28.3.15 and 28.3.18 shall apply to the agency, with such modifications as the circumstances require. The agency

shall implement any recommendations it accepts, to the extent of its legislative authority.

28.3.18 All parts of this process shall be carried out in a timely manner.

28.3.19 The Review Board shall be established by legislation by April 1, 1992 or within two years of the date of settlement legislation whichever occurs later.

#### 28.4 LAND AND WATER MANAGEMENT

28.4.1 (a) A single Land and Water Management Board shall be established as the main instrument to manage land and water throughout the settlement area. The Land and Water Management Board may have such regional operations as provided for in legislation.

(b) The Land and Water Management Board shall be established by April 1, 1992 or within two years of the date of settlement legislation, whichever is later.

(c) The objects of the Land and Water Management Board are to provide for conservation, development and utilization of the land and water resources of the settlement area in a manner that will provide the optimum benefit therefrom for present and future residents of the settlement area and for all Canadians.

(d) In 28.4, land means the surface of land.

28.4.2 (a) The Land and Water Management Board or any regional Board shall have equal membership from nominees of the Dene/Metis and of Government, not including the Chairperson. The members shall be residents of the Northwest Territories.

- (b) The decisions of the Land and Water Management Board shall be subject to review by the Minister and to judicial review in a manner to be provided in legislation.

28.4.3 (a) The Land and Water Management Board shall have the following powers:

- (i) issue, amend or renew, licences, permits and authorizations and the terms and conditions attaching thereto for all uses of land and water throughout the settlement area, including those necessary for the exercise of subsurface rights;
- (ii) oversee compliance with its decisions through inspections or otherwise, provided there shall be no duplication of the compliance system as between the Board and other government agencies or departments;
- (iii) enforce or secure compliance with its decisions by the suspension or cancellation of licences, permits and authorizations and such other methods as may be provided by legislation;
- (iv) establish policies and guidelines applicable to its licences, permits and authorizations;
- (v) hold public consultations and hearings in communities in relation to any matter within its jurisdiction;
- (vi) establish procedures for the conduct of its business, including public hearings;

(vii) propose changes to legislation to the Minister, and be consulted by the Minister on any proposed legislation;

(viii) establish rules and procedures, including reasonable fixed time limits, for the negotiation of agreements under 27.2.1.

(b) Legislation may provide for the exemption from any requirement for a licence, permit or other authorization of particular uses of land or water.

(c) Legislation shall provide for reasonable notice to affected communities of any application for a license, permit or authorization.

28.4.4 Prior to the Final Agreement, Government and the Dene/Metis will establish a process for the planning and preparation of the legislation required to implement the provisions of this chapter.

## **29        HERITAGE RESOURCES**

- 29.1.1** The Dene/Metis have a special interest in the identification and protection of Dene/Metis heritage resources.
- 29.1.2** The Dene/Metis shall be actively involved in the manner set out in this chapter in the conservation and management of such heritage resources, consistent with the maintenance of the integrity of public archives and national and territorial heritage resources collections.
- 29.1.3** The Dene/Metis shall be closely consulted in the formulation of government policy and legislation on Dene/Metis heritage resources in the settlement area and shall have an opportunity to be represented on any boards or agencies established by government to administer or protect heritage resources in the settlement area.
- 29.1.4** The Dene/Metis shall have preference in employment at public sites, museums and similar facilities in the settlement area related to Dene/Metis heritage resources, in a manner to be set out in the Final Agreement.
- 29.1.5** The Dene/Metis have traditionally referred to certain lakes, rivers, mountains and other places in the settlement area by traditional or aboriginal names. The official names of such places shall be reviewed, and may be changed to traditional Dene/Metis names, in accordance with a process to be described in the Final Agreement.
- 29.1.6** Following an examination by the parties of laws of general application relating to the protection of heritage resources, the parties may include provisions for the protection of Dene/Metis heritage resources in the Final Agreement.



29.1.7 Government recognizes that in appropriate cases artifacts and records relating to the Dene/Metis heritage which have been removed from the settlement area should be returned to the settlement area for the benefit, study and enjoyment of the Dene/Metis and all other residents of the settlement area. The government and the Dene/Metis agree to work together towards the attainment of this objective in accordance with a process to be described in the Final Agreement, provided that appropriate facilities and expertise exist in the settlement area for the proper maintenance and exhibition of such artifacts and records and consistent with the maintenance of the integrity of public archives and national and territorial heritage collections.

30        SURFACE RIGHTS BOARD

30.1     GENERAL

- 30.1.1    A Surface Rights Board ("the Board") shall be established as an institution of public government by legislation and shall have jurisdiction over matters relating to surface entry and access for holders of surface or subsurface interests in the settlement area.
- 30.1.2    The Board shall be established by April 1, 1991 or the date of settlement legislation whichever is later.
- 30.1.3    Members of the Board shall be residents of the Northwest Territories (NWT). Not less than 50% of the members of the Board or any panel shall be residents of the settlement area when dealing with Dene/Metis lands.
- 30.1.4    The cost of the Board shall be the responsibility of government. The Board shall prepare an annual budget, subject to review and approval by Government.

30.2     POWERS AND RESPONSIBILITIES

- 30.2.1    The Board shall have the following powers and responsibilities to:
- (a) receive submissions for dispute resolution when the holders of surface or subsurface commercial interests do not reach an agreement regarding the use of the surface with the owner or occupier of the surface;
  - (b) grant right of entry orders whether or not compensation for entry has been determined.
  - (c) attach conditions to right of entry orders which may include rights of the owner or occupier of the surface to verify the authorized use of the surface.

- (d) determine compensation for the use of the surface;
- (e) determine compensation for unforeseen damage resulting from entry;
- (f) prescribe rules and procedures for any negotiations required by this chapter, including the establishment of a reasonable time period for negotiations, subject to any limits prescribed by legislation, after which applications may be made for a right of entry order.
- (g) periodically review any right of entry order, any terms and conditions thereof, and compensation.
- (h) terminate a right of entry order, after a hearing, where lands are no longer being used for the purpose authorized.

30.2.2 In determining the amount of compensation payable to the designated Dene/Metis organization in respect of Dene/Metis lands, the Board shall consider:

- (a) the market value of the land;
- (b) loss of use of the land to the Dene/Metis;
- (c) effect on wildlife harvesting;
- (d) adverse effect of the taking upon lands retained by the Dene/Metis;
- (e) damage which may be caused to the land taken;
- (f) nuisance, inconvenience, and noise;
- (g) the cultural and other special value of the land to the Dene/Metis;
- (h) the cost associated with any inspection rights set out in a right of entry order;

(i) such other factors as may be provided for in the legislation;

but shall not consider the reversionary value of the interest taken, or any entry fee payable.

30.2.3 Prior to exercising a right of entry order on Dene/Metis lands, the holder of a surface or subsurface interest shall be required to pay to the designated Dene/Metis organization an entry fee, to be prescribed by legislation, and 80% of the last compensation offer made before the matter was referred to the Board.

30.2.4 A compensation hearing in respect of Dene/Metis lands shall be held not later than 30 days from the date of the right of entry order.

31        EXPLORATION, DEVELOPMENT AND PRODUCTION OF SUBSURFACE  
RESOURCES

31.1      CONSULTATION

31.1.1    Prior to opening any lands in the settlement area for oil and gas exploration, Government shall notify a designated Dene/Metis organization, provide it with an opportunity to present its views to Government on the matter, including benefits plans and other terms and conditions to be attached to rights issuance, and consider such views.

31.1.2    Before any oil and gas exploration takes place, the developer and a designated Dene/Metis organization shall consult on the exercise of the developer's exploration rights with respect to the matters listed in (a) to (h) below. Similar consultations shall be held before the exercise of a developer's rights to develop or produce.

- (a) environmental impact of the activity and mitigative measures;
- (b) impact on wildlife harvesting and mitigative measures.
- (c) location of camps and facilities and other related planning concerns;
- (d) maintenance of public order including liquor and drug control;
- (e) local Dene/Metis employment, training orientation and counselling for Dene/Metis employees, working conditions and terms of employment;
- (f) expansion or termination of activities;
- (g) a process for future consultations and;



(h) any other matter of importance to the Dene/Metis or the developer;

Such consultations are not intended to result in any obligations in addition to those required by legislation.

31.1.3 Any person who proposes to explore for minerals and who requires a land use permit or water licence shall consult with a designated Dene/Metis organization as provided in 31.1.2.

31.1.4 Similar consultations shall be held before the exercise of a developer's right to develop or produce minerals. Development is the stage after a decision to go into production has been made, but before actual production commences. Production is the removal and taking ownership of minerals other than for assay or testing purposes.

## 31.2 INTERIM PROVISIONS

31.2.1 It is recognized that discussions between the Government of Canada and the Northwest Territories may take place with respect to a Northern Accord on oil and gas development in the Northwest Territories.

31.2.2 The GNWT will involve the Dene/Metis in the development and implementation of a Northern Accord.

31.2.3 Prior to the Final Agreement, the parties will consider whether further provisions on subsurface exploration, development and production should be included in the Final Agreement.

- 32.1.1 Provisions in respect of overlapping interests between the Dene/Metis and the Inuvialuit shall be set out in the Final Agreement.

**33** . **RELATIONSHIP WITH THE INUIT**

- 33.1.1** Provisions in respect of overlapping interests between the Dene/Metis and Tungavik Federation of Nunavut shall be set out in the Final Agreement.

- 34.1.1 Dene/Metis traditional and current land use in northeastern Yukon shall be recognized in accordance with this chapter.
- 34.1.2 Dene/Metis rights and interests in Yukon shall be within:
- (a) a Dene/Metis primary use area;
  - (b) a shared use area (south), shared with the Dawson and Mayo bands;
  - (c) a shared use area (north), shared with the Old Crow band.
- 34.1.3 The geographical definition of the primary and shared use areas will be negotiated between the Dene/Metis and the bands of Old Crow, Dawson and Mayo.
- 34.1.4 Dene/Metis harvesting rights in the primary use area shall be negotiated among the Dene/Metis, the affected Yukon bands, Canada and the Yukon Territorial Government.
- 34.1.5 Dene/Metis harvesting rights in the shared use area (north) shall be negotiated among the Dene/Metis, the Old Crow Band, Canada and the Yukon Territorial Government.
- 34.1.6 Dene/Metis harvesting rights in the shared use area (south) shall be negotiated among the Dene/Metis, the Dawson Band, the Mayo Band, Canada and the Yukon Territorial Government.
- 34.1.7 Dene/Metis participation in the management of land, water, wildlife and renewable resources in the primary and shared use areas shall be negotiated among the Dene/Metis, the affected Yukon bands, Canada and the Yukon Territorial Government and is subject to implementation

of the appropriate structures pursuant to the settlement of claims by Yukon Indian bands.

- 34.1.8 Dene/Metis claims to other rights and benefits in the primary and shared use areas shall be negotiated among the Dene/Metis, the affected Yukon bands, Canada and the Yukon Territorial Government.
- 34.1.9 All of the negotiations required by this chapter will be completed prior to the Final Agreement and the resulting agreements will be set out in the Dene/Metis Final Agreement and in the Final Agreements of the affected Yukon bands.
- 34.2.1 Where Yukon Indians or Dene/Metis demonstrate traditional and current land use in the settlement area or in areas of Yukon other than northeastern Yukon, negotiations may be conducted among the appropriate Yukon bands, Canada, the Government of the Northwest Territories, the Yukon Territorial Government and the Dene/Metis; any resulting agreements will be set out in the appropriate Final Agreements.



35.1.1 Prior to the Final Agreement, Canada, the GNWT and the Dene/Metis shall negotiate an implementation plan which shall:

- (a) identify and cost specific obligations and responsibilities required to implement the Final Agreement;
- (b) establish how, and by whom, such obligations and responsibilities will be carried out;
- (c) identify the impact of the Final Agreement on legislation, and propose, to the extent desirable, changes to bring legislation into accord with the Final Agreement.

36 LAND SELECTION PROCESS

36.1 LAND SELECTION

- 36.1.1 Land selection shall begin following the approval of this agreement.
- 36.1.2 The Parties recognize that prior to land selection:
- (a) Appropriate provisions for interim protection shall be negotiated.
  - (b) The Dene/Metis will table their land use and occupancy maps for review by Government.
  - (c) The Dene/Metis will advise government as to the regional and community land quantum, including subsurface, if any.
- 36.1.3 The land selection processes for Dene/Metis settlement lands and Dene/Metis municipal lands shall be undertaken concurrently region by region. Negotiations shall take place at locations to be determined by the parties prior to the commencement of land selections for each region.
- 36.1.4 Prior to the commencement of land selection for each region, Government shall provide the Dene/Metis with current data respecting the location and nature of existing government and third party interests in each region, including government and surface leases, exploration agreements, recorded mining rights, timber permits and harvesting agreements, fee simple grants and the like.
- 36.1.5 Initial land selection maps shall be prepared for each region by the Dene/Metis, and may identify up to one and one half times the total land quantum. The maps shall show subsurface selections, if any, under such lands. An

estimate of the area of each selection shall also be indicated on the maps.

- 36.1.6 Government review and analysis of land selection maps shall occur primarily in the Northwest Territories, and negotiations and map exchanges shall be centralized in the NWT to expedite the land selection process.
- 36.1.7 Upon completion of all land selections within a region, the maps and any agreements in respect of the selections shall be initialled by the parties.
- 36.1.8 The initialled land selection maps shall, if required, be transposed onto alternative scale maps.
- (a) The transposing of the maps shall be the responsibility of Government.
- (b) Upon completion, the transposed maps shall be brought to the negotiating table for final review by the parties for accuracy.
- 36.1.9 The initialled agreements and maps shall only be reopened for negotiation if specifically agreed by the parties.
- 36.1.10 Where land proposed for selection is owned or ordinarily resided on by a person eligible to be a participant, the Dene/Metis shall give written notice to that person that such lands are proposed for land selection and, prior to that selection being accepted by government, the Dene/Metis shall obtain a written consent to such selection from that person. The Dene/Metis shall obtain a transfer or release of that person's interest prior to the lands becoming Dene/Metis lands.
- 36.1.11 Prior to the commencement of land selection, government shall provide the Dene/Metis with maps or lists of all proposed parks or other protected areas in the settlement area. The identification of new parks or other protected

areas may be considered in the course of land selection negotiations. Provisions relating to particular protected areas may be included in the Final Agreement.

**36.2**     LAND SELECTION - DENE/METIS SETTLEMENT LANDS

- 36.2.1**   The initial land selection maps referred to in **36.1.5** shall be prepared using 1:250,000 scale National Topographic Series (NTS) maps.
- 36.2.2**   The Dene/Metis shall indicate on the land selection maps any existing significant public routes which are in common use.
- 36.2.3**   Government shall review the areas indicated on the maps provided by the Dene/Metis and advise the Dene/Metis of the position of Government as to the suitability of those lands for negotiation.
- 36.2.4**   Unless otherwise agreed maps for the selection of Dene/Metis settlement lands and Dene/Metis municipal lands shall be tabled simultaneously for each community.
- 36.2.5**   The location of any adjustments to land selections that may be required pursuant to **21.1.11**, shall be agreed upon at the time of land selection to the extent possible.

**36.3**     LOCAL GOVERNMENT BOUNDARY DETERMINATION

- 36.3.1**   GNWT and the Dene/Metis will review the boundaries of the following local governments:

(to be completed prior to land selection)

- 36.3.2**   The review and the analysis of local government boundaries shall be conducted by representatives of the Dene/Metis and GNWT. Local government authorities may participate in the review under the aegis of the GNWT.

- 36.3.3 After an agreement has been reached adjusting or confirming local government boundaries, the GNWT will adjust the boundaries forthwith.
- 36.3.4 Upon joint agreement by the GNWT and the Dene/Metis on local government boundaries, this review process shall terminate.
- 36.3.5 Land selection will not commence for the local governments listed in 36.3.1 until the boundaries have been determined.
- 36.3.6 Where there are no local government boundaries established in legislation the Development Control Zone boundary shall constitute the boundary for the purpose of land selection.

36.4 LAND SELECTION - DENE/METIS MUNICIPAL LANDS

- 36.4.1 Initial data base preparation will be completed by the GNWT for each local government, and include a text and/or maps as follows:
- (a) a map of the existing local government boundary to 1:50,000 scale;
  - (b) local government mapping at 1:2,000 scale, showing all legal and unsurveyed parcels and topographic features;
  - (c) textual data base showing land ownership/dispositions including expiry dates of leases;
  - (d) where 1:2,000 maps are not available, the GNWT will provide an appropriate alternate map.
- 36.4.2 The GNWT will verify its respective data base in consultation with each local government authority.



- 36.4.3 Upon receipt, the GNWT will forward the data base to the Dene/Metis Negotiations Secretariat.
- 36.4.4 The Dene/Metis shall subsequently prepare land selection maps for each local government using local government planning maps, where possible or the largest scale maps available.
- 36.4.5 The level of detailed planning (i.e. identification of individual lot boundaries and road allowances within the built-up portion of the local government and future expansion areas within that boundary) will vary from local government to local government.
- (a) In cases where detailed planning is not available for those lands identified for selection by the Dene/Metis, including those lands selected within the area designated as expansion lands within the local government boundary, land selection shall proceed in accordance with:
- (i) a description of the building occupied by a participant, including sufficient land around the building, taking into account past use and the local government norm, with the understanding that this description will be reflected within the subdivision plan, when prepared; or
  - (ii) a description of the unoccupied government land by way of a sketch map illustrating approximate dimensions with the understanding that the dimensions will be finalized when a subdivision plan is prepared.
- (b) Where the Dene/Metis have not completed selection of Dene/Metis municipal lands by the time of the Final Agreement, the Dene/Metis may select the remaining

land quantum as expansion areas are brought on stream (i.e. developed and/or serviced) with the understanding that future specific selections will be conducted in such a way so as to respect local government infrastructure requirements, and will ensure that public lands are retained in the local government for residential, commercial, industrial and recreational purposes.

- 36.4.6** The Dene/Metis shall forward maps as described in **36.4.4** to the GNWT, and a copy shall be sent to the appropriate public local authority for the preparation of a formal government response.

For Canada:



The Right Honourable Brian Mulroney  
Prime Minister of Canada

For the Dene Nation and the Metis  
Association of the Northwest  
Territories:



William Erasmus  
President, Dene Nation



The Honourable Bill McKnight  
Minister of Indian Affairs  
and Northern Development



Mike Paulette  
President, Metis Association of the  
Northwest Territories

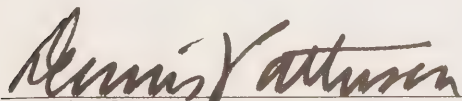


David E. Osborn  
Chief Federal Negotiator

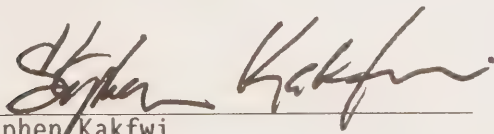


Ted Blondin  
Chief Negotiator

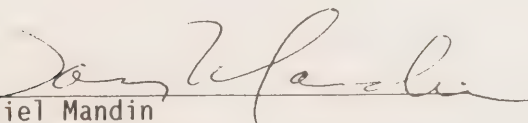
For the Government of the  
Northwest Territories:



Dennis Patterson  
Government Leader



Stephen Kakfwi  
Minister for Aboriginal Rights  
and Constitutional Development



Daniel Mandin  
Senior Negotiator

Witnesses

Dene Band Chiefs and Metis Local Presidents:

Chief Ace McCauley Inuvik

Chief Grace Blake - Arctic Red River

Chief ALFRED HOBBSAY - FT. SIMPSON

Johnny D. Chute Fort McPherson

Beatrice Daniels - Metis Elder Local #50

President Metis Local - Inuvik Mabel Doolittle

Lloyd Sand & Via Pres Metis Coats NW

CHIEF Ely - P - AKLAVIK

Chief Stewart - AKLAVIK

Chief Jacques Fort Resolution

Thomas G. Colyer NW

Chief & Sake Hardisty Wrigley NW

B. B. E. D. E. A

Chief Ely Ely - Fort Resolution

Pres. Metis Local "53" Augustine Rodd

Metis Local #50 President Robert Bull

Bella Trindell,

Cecilia Tourangeau

W Vice President Don Martin

Houma Bayou, president, and grant deno band  
Jim Thomas Hay River clay River, N.W.T.

Don Lapine, Salt River N.W.T.

Frank & Frank H.

Roe Fraser Local #59

Danny McNulty " #84, Ft. Good Hope.

Gatto Kanga Fort Smith N.W.

Chief John Satze Fort McMurray, N.W.T.

Enoch Willie Minga Fort Providence, N.W.T.

Jim Benaud Counselor Fort Liard Band.

John Martin

Sub Chief Lela Martre

LOUIS ZOE

Sub Chief Roe Lake N.W.T.

Ala. de. de. de.

Sub Chief Spore Lake N.W.T.

W

Chief Ft. Fitzgerald Dene

J. Hargrave South Slave Tribal Council

Angus Arny sub chief Jean Marie N.W.T.

Joe Pouch Trout Lake N.W.T. Council

Paul H.

Fort Smith Band

Frank Holden Fort Liard Band



















